

**SUMMARY REPORT OF INVESTIGATION**  
**Office of Inspector General Case # 15-0564**  
**(Detective David March)**  
**July 29, 2016**

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This report consists of a summary of the evidence set out in the attached investigative materials and the Office of Inspector General's (OIG's) analysis of that evidence. An index of the investigative materials is attached.

**I.     INTRODUCTION**

An OIG investigation has established that David March, a Chicago Police Department (CPD) detective who conducted CPD's investigation of the events culminating in Officer Jason Van Dyke's October 20, 2014 shooting of Laquan McDonald, violated CPD Rules and Regulations during that investigation. More specifically, and as detailed further below, March made false material statements and conclusions in the reports he drafted, provided a false material statement to the Cook County Office of Medical Examiner regarding the circumstances of McDonald's death, and failed to properly document his investigative interviews of Van Dyke. Accordingly, OIG recommends that CPD discharge March and refer him for placement on the ineligible for rehire list maintained by the Department of Human Resources.

**II.    APPLICABLE RULES, REGULATIONS, AND LAW**

**A.       CPD Rules and Regulations**

The "Rules and Regulations of the Chicago Police Department" set out the standards of conduct and duties of sworn members, as well as CPD goals. The Rules and Regulations state that sworn members must "conduct themselves at all times in such a manner as will reflect credit upon the Department with emphasis on personal integrity and professional devotion to law enforcement."

Article V of the CPD Rules and Regulations, entitled CPD Rules of Conduct (the CPD Rules), sets forth specifically prohibited acts. In pertinent part, the CPD Rules include the following prohibitions:

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| <b>Rule 2</b>  | Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department. |
| <b>Rule 3</b>  | Any failure to promote the Department's efforts to implement its policy or accomplish its goals.                                      |
| <b>Rule 6</b>  | Disobedience of an order or directive, whether written or oral.   |
| <b>Rule 11</b> | Incompetency or inefficiency in the performance of duty.  |
| <b>Rule 14</b> | Making a false report, written or oral.   |

## **B. CPD Detective Division Special Orders**

CPD Special Orders are directives that establish protocols and procedures concerning specific CPD functions, operations, programs, or processes. Addendum 1 to Detective Division Special Order (DDSO) 11-01, titled “Homicides and Sworn Weapon Discharge Incidents,” effective from May 9, 2011 to January 1, 2015, states that detectives investigating homicides or weapon discharge incidents involving sworn members will “thoroughly document relevant information discovered during the course of the investigation” and “[r]ecord relevant information initially transcribed on General Progress Reports or other investigative documents to formatted Department reports (e.g. Supplementary Report, General Offense Case Report, etc.).”<sup>1</sup>

Revision a to DDSO 01-01, titled “Violent Crimes Oversight Offices” and effective from October 10, 2002 to November 21, 2014, states that detectives investigating police shootings will, among other tasks:

- “canvass the area in every case to identify, locate and gather witnesses. All canvasses will be documented – including negative results;”
- “arrange for transportation of all witnesses who have pertinent knowledge of the shooting to the appropriate district station or area headquarters, ensuring that they are kept separated until interviewed;”
- “take formal written statements from eyewitnesses, when appropriate;” and
- “take either written or oral statements from other witnesses as circumstances of the investigation dictate.”<sup>2</sup>

DDSO 15-22, titled “Justifiable Homicides,” outlines the protocols that CPD members in the Bureau of Detectives are to follow regarding justifiable homicides.<sup>3</sup> The order defines a justifiable homicide as either “the killing of a felon by a peace officer in the line of duty,” or “the killing of a felon by a private citizen during the commission of a felony.”<sup>4</sup> Section III of DDSO

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<sup>1</sup> OIG 15-0564 009121-23. DDSO 11-01, titled “Investigative Files,” defines “General Progress Report” as follows: “A General Progress Report will be used by all Division members and is designed to standardize the recording of handwritten notes and memoranda including witness or suspect interviews, on-scene canvasses, written inter-watch communications that are investigative and not administrative in nature, or any other written notes generated during the course of an investigation.”

<sup>2</sup> OIG 15-0564 009208.

<sup>3</sup> OIG 15-0564 009416-17. According to documents dated April 28, 2016 which OIG received from CPD, DDSO 15-22 remained in effect at least as of that date. DDSO 15-22 took effect on January 1, 2015, and was in place when the relevant CPD reports in this case were issued. See OIG 15-0564 009012.

<sup>4</sup> OIG takes no position on whether the McDonald shooting was appropriately classified as a justifiable homicide, but rather notes that CPD reported the incident as such.

15-22 outlines reporting procedures for justifiable homicides and requires that:

- A. “When an incident is determined to be a justifiable homicide, the assigned detective will obtain a second RD number. The first case will bear the classification of the crime the felon was committing. The second RD number will be for the justifiable homicide. Detectives will not identify a person lawfully entitled to use deadly force as an ‘Offender.’
- B. The facts detailing the entire investigation will be reported in the justifiable homicide report.

**Note:** The narrative section of the original felony report will state, ‘The facts of this case are reported under RD#\_\_\_\_\_. For complete details, refer to that investigation.’

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- E. Detectives will state in their reports that no charges were placed at this time. They will not state that use of deadly force was justified.

### **III. DETECTIVE MARCH’S EMPLOYMENT HISTORY**

March joined CPD in June of 1982 as a police officer. He became a Detective in 1990. On October 20, 2014, he was a Detective assigned to Area Central, a position he has held from 2012 through the present. March is a member of Fraternal Order of Police (FOP) Lodge 7.

### **IV. SUMMARY OF INVESTIGATION**

#### **A. Procedural History of OIG’s Investigation**

By letter dated December 8, 2015, IPRA Acting Chief Administrator Sharon Fairley requested that OIG conduct an administrative investigation “to determine whether certain police officers/witnesses made false statements on official reports prepared in connection with [Van Dyke’s shooting of McDonald] and/or during the investigation of the incident.”<sup>5</sup> IPRA further requested that OIG investigate “whether any of the involved Chicago Police officers committed any other violation(s) of Chicago Police Department rules, policies or procedures in their involvement with the incident, including, but not limited to, whether any officers’ conduct may have interfered with or obstructed the appropriate investigation and handling of this matter.”

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<sup>5</sup> On November 24, 2015, the Cook County State’s Attorney charged Van Dyke with a single count of first degree murder in the shooting of McDonald. On December 15, 2015, it subsequently charged him with six counts of murder. OIG has not been involved with any criminal investigation related to the shooting and makes no findings regarding Van Dyke’s use of force.

Then, by letter dated January 13, 2016, CPD Interim Superintendent John J. Escalante requested that OIG conduct an “administrative investigation into any and all allegations of police officer misconduct” arising out of the October 20, 2014 shooting death of McDonald. The Superintendent’s request asked OIG to investigate the following allegations: “whether any officer(s) made false statements on official reports submitted in connection with the shooting of Laquan McDonald on October 20, 2014; whether any officer(s) obstructed or interfered with the investigation of this incident, either individually or in collusion with others; and whether any officer(s) committed any violation of Chicago Police Department rules, policies, or orders in connection with their response and/or handling of this matter.” Escalante attached to the letter request a copy of Sergeant Sandra Soria’s Initiation Report, which raises allegations of misconduct related to the in-car video systems of the vehicles that were present during the McDonald shooting, and identified that Report as a basis for OIG’s administrative investigation.

On March 10, 2016, Kevin Kilmer, Financial Secretary for the FOP, filed a grievance with CPD on behalf of all affected members, stating that OIG’s attempts to conduct CPD officer interviews violated Article 6 of CPD’s Collective Bargaining Agreement (CBA) with the FOP.<sup>6</sup> On March 16, 2016, FOP, on behalf of all impacted CPD officers, filed a “Complaint for Injunction in Aid of Arbitration” in the Circuit Court of Cook County asking the court to enjoin OIG from conducting interviews until the grievance was decided in arbitration.<sup>7</sup> The court dismissed the complaint and denied the injunction on March 22, 2016.

OIG’s administrative investigation of other CPD employees’ actions related to the McDonald shooting is ongoing. During the course of its investigation, OIG has gathered documents from CPD and IPRA, among other sources, and conducted numerous interviews, including interviews of CPD personnel who were at or responded to the scene of the shooting and civilian witnesses to the shooting. To date in its ongoing investigation, OIG has recommended disciplinary action against multiple CPD personnel.

## **B. The Events of October 20, 2014**

The following sections detail the shooting of McDonald, as well as the relevant events that occurred directly before and after the shooting.<sup>8</sup>

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<sup>6</sup> Section 6.1, Paragraph I of the CBA states, “If the allegation under investigation indicates a recommendation for separation is probable against the Officer, the Officer will be given the statutory administrative proceeding rights, or if the allegation indicates criminal prosecution is probable against the Officer, the Officer will be given the constitutional rights concerning self-incrimination prior to the commencement of interrogation.” CPD General Order GO8-01-01, Paragraph K contains similar language.

<sup>7</sup> *Fraternal Order of Police, Chicago Lodge 7 v. City of Chicago*, No. 2016 CH 03726 (Cir. Ct. of Cook County, Ill., Mar. 16, 2016).

<sup>8</sup> On April 22, 2016, OIG obtained maps of the locations that are relevant to the shooting from Google Maps and included those maps in Appendix A. Those maps generally reflect the street layout and location of relevant businesses as they were on the night of October 20, 2014.

1. [REDACTED] and Barillas' Encounter with McDonald<sup>9</sup>

[REDACTED] and [REDACTED] Rudy Barillas were parking a truck in a lot at 41st Street and Kildare Avenue when [REDACTED] saw a black male, who she subsequently identified as Laquan McDonald, attempting to steal property from certain vehicles parked in the lot. Barillas told McDonald to leave the lot. McDonald responded by making growling noises. After Barillas again told McDonald to leave the lot, McDonald pulled out a knife and swung it at Barillas. Barillas, who had already called 911, then threw his cell phone at McDonald.<sup>10</sup> McDonald ran from the lot, first northbound on Kildare and then eastbound on 40th Street.

2. Officers Gaffney and McElligott's Encounter with McDonald<sup>11</sup>

Officer Thomas Gaffney and his partner Officer Joseph McElligott received a call over the radio that someone had broken into a truck at 4100 South Kildare and were dispatched to the scene.<sup>12</sup> Gaffney was driving and McElligott was in the passenger seat of their assigned vehicle, 815R.<sup>13</sup> When they arrived at 4100 South Kildare, they saw a Hispanic male and female standing by the

<sup>9</sup> The following account of [REDACTED] and Barillas' encounter with McDonald is taken from the March 16, 2015 case supplementary report (CSR) submitted by CPD Detective David March, which includes the statements that [REDACTED] and Barillas provided to CPD on October 21, 2014, and October 22, 2014 respectively. OIG 15-0564 003077.

<sup>10</sup> OEMC recordings reflect that Barillas called 911 at 9:45 p.m. stating that he was holding "a guy right hear [sic] that stolen [sic] the radios" from trucks in a truck yard located at "41st and Kildare." OIG 15-0564 003227.

<sup>11</sup> The following account of Gaffney and McElligott's encounter with McDonald is taken from (1) the audio-recorded statements Gaffney and McElligott provided to IPRA on October 21, 2014, OIG 15-0564 000482-98, 000610-30; and (2) the March 16, 2015 CSR submitted by March, which includes the statements that Gaffney and McElligott provided to March on the night of the McDonald shooting. OIG 15-0564 003067-69.

<sup>12</sup> OEMC records reflect that Gaffney and McElligott received the call at 9:47 p.m. OIG 15-0564 003691.

<sup>13</sup> Below is a chart identifying the beat numbers and vehicle numbers of the CPD vehicles that were present when McDonald was shot, along with the names of the officers who were assigned to those vehicles. This SRI refers to the below-referenced vehicles by beat number, unless otherwise specified.

Beat #	Vehicle #	Officers
845R	6412	Officer Walsh (driver), Officer Van Dyke (passenger)
815R	8489	Officer Gaffney (driver), Officer McElligott (passenger and on foot)
813R	8779	Officer Janet Mondragon (driver), Officer Daphne Sebastian (passenger)
822R	8765	Officer Arturo Becerra (driver), Officer Leticia Velez (passenger)
841R	8948	Officer Ricardo Viramontes (driver), Officer Dora Fontaine (passenger)

gate to the truck yard. The two said that a black male wearing a black shirt, later determined to be McDonald, had been trying to steal the radio out of a semi-truck and had subsequently headed north toward 40th Street.

Gaffney and McElligott drove north on Kildare, turned right onto 40th Street, and saw McDonald walking east on the south side of 40th Street. McElligott exited the vehicle and commanded McDonald to stop and turn around. Gaffney stayed in the vehicle in case McDonald attempted to flee. McElligott ordered McDonald to take his hands out of his pockets. McDonald, who had been facing McElligott, turned and walked away with one hand still in his pocket. McDonald then turned again and took both of his hands out of his pockets. He had a knife in his right hand. McElligott drew his weapon and told McDonald to drop the knife. McDonald started walking east again, going from the sidewalk to the street and back. McElligott followed McDonald on foot, shining his flashlight on him, while Gaffney followed in 815R, parallel to McDonald.

As McDonald approached the intersection of 40th and Keeler, Gaffney reported to dispatch that McDonald was walking away with a knife in his hand.<sup>14</sup> Gaffney and McElligott continued to follow McDonald as he headed east, with McElligott giving McDonald orders to drop his knife and stop. McDonald kept turning around and giving the officers a “weird glaze[d] look.” Gaffney IPRA Tr. 11:20.<sup>15</sup>

As McDonald approached the intersection of 40th and Karlov, Gaffney turned his car toward McDonald to direct him down Karlov. Gaffney wanted to keep McDonald away from Pulaski, which was a more populated area. McDonald then swung his arm and popped 815R’s right front tire with his knife. McElligott was toward the back of 815R when McDonald popped its tire. After McDonald took a step back from the vehicle, Gaffney pulled up further in front of him to stop him from proceeding to Pulaski. McDonald then hit the right side of 815R’s windshield once with the knife in his right hand. The windshield did not break, but according to Gaffney, McDonald hit it as hard as he could. McDonald walked around the front of 815R and continued eastward on 40th Street. After McDonald had walked 10 to 15 feet, another squad car turned off of Pulaski onto 40th Street with its lights on, and McDonald began to sprint. McElligott followed McDonald on foot, and Gaffney followed McDonald in 815R. McDonald ran eastbound through the Burger King parking lot at 40th and Pulaski and then headed southbound on Pulaski. Video footage from several cameras captured McDonald’s movements once he reached Pulaski.

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<sup>14</sup> OEMC recordings reflect that, at 9:53 p.m., 815R reported: “We’re at 40th and Keeler. This guy uh is walking away from us and he’s got a knife in his hand.” Approximately 30 seconds later, a dispatcher stated, “815R looking for a taser.” See OEMC Documents and CDs; see also *OIG 15-0564 003691, 3228*.

<sup>15</sup> *OIG 15-0564 000620*.



### 3. Summary of the Relevant Video Footage

The below table contains a summary of the relevant video footage of the McDonald shooting, which includes the dashcam videos from 813R and 845R, video from the “WNE fire exit” security camera from the Greater Chicago Food Depository, which is bordered by 40th Street to the north, Karlov Avenue to the east, and Keeler Avenue to the west, and the security camera video from the Dunkin’ Donuts, located at 4113 South Pulaski Road (the DD Camera).<sup>16</sup>

Time	Event(s) Captured	Source of Video
9:53:17 – 9:54:42	McDonald walks eastbound on the south side sidewalk of 40th Street; a CPD SUV travels east on 40th Street, parallel to McDonald with its front bumper even with McDonald; an officer on foot trails directly behind McDonald by the length of the SUV, with his flashlight trained on McDonald. <sup>17</sup>	Greater Chicago Food Depository Security Camera
9:56:53 – 9:57:01	813R and 845R turn left onto 40th Street from Pulaski.	813R Dashcam
9:57:01– 9:57:09	An unidentified person on 40th Street points the CPD vehicles toward the Burger King parking lot (813R); 845R turns into the parking lot (813R). McDonald runs southeast through the Burger King parking lot out onto Pulaski (845R).	813R Dashcam; 845R Dashcam
9:57:09 – 9:57:20	845R drives over the curb and sidewalk north of Burger King and heads south on Pulaski (845R); 813R turns around, turns right onto 40th Street, and then right again on Pulaski (813R); McDonald runs southbound in the middle of Pulaski and enters the intersection of 41st Street and Pulaski (813R).	813R Dashcam; 845R Dashcam
9:57:20 – 9:57:25	845R, which is facing east/southeast on Pulaski just north of 41st street, turns right behind McDonald and proceeds south on Pulaski on the east side of the street; 845R’s passenger door briefly opens and then closes as it passes McDonald on his left; McDonald continues southbound	813R Dashcam

<sup>16</sup> In addition to the videos cited in the summary, OIG obtained video footage from the security camera videos at Burger King and Focal Point, and the dash camera videos from Vehicles 815R and 821R. These videos did not contain footage relevant to this report.

<sup>17</sup> OIG confirmed the vehicle is 815R and the officer on foot is McElligott by comparing the video with photographs of the officers. OIG 15-0564 003356.

	on Pulaski, toward 822R, which is stopped in the middle of Pulaski facing north.	
9:57:25 – 9:57:28	McDonald slows as he approaches 822R, touches his hands to his waist, and then, before Walsh and Van Dyke exit 845R, and with 822R situated between McDonald and the officers, McDonald extends his right arm fully to his right—the video shows that he has a silver object in his right hand; 845R passes 822R and comes to a stop on the east side of Pulaski, facing south and almost directly south of 822R; Van Dyke opens 845R’s passenger door.	813R Dashcam
9:57:28 – 9:57:30	McDonald changes course and begins walking southwest on Pulaski, away from 822R and 845R (813R); Van Dyke exits the passenger side of 845R with both of his feet in Pulaski’s northbound left turn lane, his gun drawn and pointed at McDonald (813R). Walsh exits the driver side of 845R, just east of Pulaski’s northbound left turn lane, with his gun drawn, and moves north along the driver side of 845R until he is several feet north of 845R (DD Camera).	813R Dashcam; DD Camera <sup>18</sup>
9:57:30 – 9:57:33	McDonald continues to walk southwest, from the middle of Pulaski to the lane markers that divide the west side of the road (or approximately one lane west of where McDonald was prior to changing course) (813R). While McDonald walks southwest, Walsh begins moving sideways in a west/southwest direction, approximately parallel to McDonald, and crosses over the east side of Pulaski’s northbound left-turn lane—his gun is pointed at McDonald (813R; DD Camera). Van Dyke takes approximately two steps northwest toward McDonald, with his left foot crossing into Pulaski’s yellow-painted median strip—his gun is pointed at McDonald (813R; DD Camera). 822R drives north on Pulaski, away from 845R (813R). 841R drives north in the middle of Pulaski, toward 845R and stops just south of 845R, facing north (813R; DD Camera).	813R Dashcam; DD Camera
9:57:33 –	As McDonald approaches the lane markers on the west	813R Dashcam;

<sup>18</sup> The DD Camera video does not display an embedded timestamp. Therefore, OIG used the timestamp of 813R’s video, which generally captured the same events as the DD Camera from a different angle, to establish the timeframe of the events captured by the DD Camera.



9:57:36	side of Pulaski, walking in a southwest direction, he looks to his right and moves his right hand behind his waist, near the right side of his lower back, then brings his hand back to his right side (813R). As McDonald crosses the lane markers on the west side of Pulaski, he looks to his left and takes a step southbound (813R). Meanwhile, Walsh continues moving west/southwest with his gun pointed at McDonald, ultimately traversing almost the entire width of Pulaski's northbound left-turn lane (813R; DD Camera). Van Dyke takes an additional step west, toward McDonald, putting both of his feet in Pulaski's median strip and placing himself almost directly between McDonald and Walsh (813R; DD Camera). McDonald is then apparently shot and Walsh stops moving and adopts a stance, with his feet more than a shoulder's width apart (813R; DD Camera).	DD Camera
9:57:36 – 9:57:54	McDonald spins between 180 and 270 degrees in a clockwise direction and then falls to the ground with the top of his head pointing south on Pulaski, approximately one street lane east of Van Dyke and just south of Van Dyke (813R). As McDonald falls to the ground, Van Dyke takes another step west toward McDonald, moving his right foot from Pulaski's median strip into the south-bound side of Pulaski—his gun remains pointed at McDonald (813R). Van Dyke subsequently takes an additional step or two south, toward McDonald (DD Camera). Other than those steps, Van Dyke's feet are stationary (DD Camera). After McDonald is on the ground, his legs and feet do not move (813R). McDonald's upper body makes small, intermittent movements as what appear to be puffs of smoke rise from McDonald's body (813R). <sup>19</sup>	813R Dashcam; DD Camera
9:57:54 – 9:58:05	An officer approaches McDonald and kicks the knife from his hand. McDonald does not make any noticeable movements.	813R Dashcam
9:58:05 – 9:58:20	McDonald lies on the ground; no aid is rendered by CPD personnel. 823R, travelling northbound, pulls up on the west side of Pulaski, and stops just south of where	813R Dashcam; 823R Dashcam

<sup>19</sup> OEMC records show that dispatch received notice to send an ambulance to the scene at 9:57:51. OIG 15-0564 003691.

	McDonald is lying.	
9:58:20 – 9:58:57	Several CPD officers walk and stand near McDonald as he lies on the ground; no aid is rendered by CPD personnel.	813R Dashcam; <sup>20</sup> 823R Dashcam
9:58:57 – 9:59:02	823R begins making a U-turn on Pulaski. A Cook County Sheriff's Police Department (CCSPD) officer puts on blue gloves and walks toward McDonald. <sup>21</sup> McDonald is no longer visible in the video frame.	823R Dashcam

#### 4. CCSPD Officer Accounts of the October 20, 2014 McDonald Shooting<sup>22</sup>

While on patrol on October 20, 2014, CCSPD Officers Adam Murphy and Jeff Pasqua observed several CPD police vehicles pass by them. Both officers decided to follow the CPD vehicles. When they arrived at the scene, several CPD vehicles were already present—Pasqua estimated it was five or six. McDonald was lying on the pavement “gasping for his last breath of air.” Pasqua OIG Tr. 11:22-23. Meanwhile, the CPD officers were “standing around” and talking to each other. Murphy OIG Tr. 11:1. Murphy noted the CPD officers did not respond to him when he asked if they needed assistance. Murphy stated:

I see there's blood all over the pavement. [McDonald] was kind of gurgling when he was sitting there. I remember his mouth was going open and closed like he was trying to gasp for air. And I looked for everybody else, and they were kind of standing there. I just started taking my gloves—my rubber gloves out to check for a pulse and to see if I could render aid.

Murphy OIG Tr. 12:18-13:2. He heard someone say an ambulance was en route. Both Officers Murphy and Pasqua recalled then watching McDonald take his final breaths.<sup>23</sup> It was “[m]aybe less than a minute before [McDonald] expired.” Murphy OIG Tr. 14:15-16. At no time did any CPD officers attempt to provide aid or comfort McDonald—Murphy stated, “That’s why I felt that I needed to go up to him.” Murphy OIG Tr. 14:11-12.

After McDonald passed away, Murphy got up from beside him and noticed the shooting officer, who he now knows to be Van Dyke, “pacing back and forth in front of his car.” Murphy OIG

<sup>20</sup> The last time stamp visible on the 813R dashcam video is 9:58:55.

<sup>21</sup> OIG identified the CCSPD officer as Officer Adam Murphy.

<sup>22</sup> The following CCSPD Officer accounts are taken from OIG’s June 23, 2016 interview of Jeff Pasqua and its June 24, 2015 interview of Adam Murphy. Pasqua and Murphy are currently CCSPD investigators.

<sup>23</sup> The Medical Examiner’s Case Report states McDonald was pronounced dead “on view” at Mount Sinai Medical Center on October 20, 2014, at 10:42 p.m. OIG 15-0564 015029.

Tr. 15:7-8. Murphy approached him and told him to sit down and drink water. As he was speaking with Van Dyke, Murphy “heard several officers telling [Van Dyke] to ‘call your union rep, call your union rep.’” Murphy OIG Tr. 15:16-17.

Murphy and Pasqua departed after approximately ten minutes on the scene when a CPD sergeant told them CPD did not need their assistance. At the time they left, there was “[a] sea of CPD” on scene. Murphy OIG Tr. 38:3; Pasqua OIG Tr. 25:7-8.

### **C. The Cook County Office of Medical Examiner’s Case Report and Post-Mortem Examination Report**

On October 21, 2014 at 1:30:31 a.m., Cook County Office of Medical Examiner (CCME) Investigator Earl Briggs completed a Case Report concerning the McDonald shooting.<sup>24</sup> The report, identified as ME2014-01071, contains, among other information, background information on McDonald, the “Place of Occurrence/Incident,” and the time McDonald was pronounced deceased. The report further contains a “Notification” section, which lists March’s name, title, star number, telephone number and beat. Under “Date” and “Time,” the notification section states “10/20/14” and “11:51:59 PM.” The notification section also lists a “Police Report #” of HX475653. The report was approved by CCME Investigator I Anthony King. The report contains a “Narrative” section, which states in relevant part as follows:

On 20 October 2014 at 2351 hours Detective March # 20563 of the Chicago Police Department Area Central Detectives Beat # 5121 notified the Forensic Institute the subject Laquan McDonald had expired at Mt. Sinai Hospital after being shot by an on duty Chicago Police Officer.

Detective March related the following: on or about 2156 hours 19 October 2014 Chicago Police 8th District Beat Car 815R responded to 41st and Kildare in reference to a “Citizen Holding a Subject”. Upon arrival Beat # 815R was confronted by the subject who threatened the officers with a 4 inch fold knife. The subject fled the scene on foot where at 4112 S. Pulaski the subject was stopped by officers assigned to Beat # 845R. The officers announced their office as “Chicago Police Officers” and ordered the subject to drop the knife. The subject lunged at the officers with the knife. Fearing for their life and attempting to stop the threat one officer (star # 9465) fired sixteen rounds from his duty weapon a Smith & Wesson 9mm handgun striking the subject numerous times. After striking the subject an ambulance was requested by the officers.

Upon arrival of Chicago Fire Department Ambulance # 21 the subject was transported to Mt. Sinai Hospital. Once at Mt. Sinai Hospital emergency room staff were unable to revive the subject and the subject expired at 2242 hours being pronounced by Doctor Titeel. It appears that the subject sustained the following gunshot wounds, four to the chest, six to the right arm, five to the left arm, one to

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<sup>24</sup> OIG 15-0564 015028-31.

the rightside torso, two to the back, one to the right hip, two to the left leg front, two to the left leg rear, 2 to the left thigh and three to the right thigh. At this time since the officer fired sixteen times which of the twenty-six gunshot wounds are entrance or exit wounds.

On January 15, 2015, CCME Assistant Medical Examiner Denika Means completed a Report of Postmortem Examination regarding ME2014-01071.<sup>25</sup> The report lists McDonald's date of death as October 20, 2014 and the "Date Examined" as October 21, 2014 at 8:25 a.m. The report's "Opinion" section states in its entirety as follows: "Based on the case history and autopsy findings, it is my opinion that Laquan McDonald, a 17-year-old black male, died as the result of multiple gunshot wounds."

#### **D. Public Statements Concerning the McDonald Shooting**

In the immediate aftermath of the shooting, CPD's Office of News Affairs and FOP Spokesperson Pat Camden each made public statements regarding the shooting. On October 21, 2014, the Office of News Affairs issued a press release titled "Preliminary Statement on Police Involved Shooting – 4100 Block of S. Pulaski."<sup>26</sup> The release described the shooting as follows: "Near the intersection of 4100 S. Pulaski, uniformed officers confronted the armed offender who refused to comply with orders to drop the knife and continued to approach the officers. As a result of this action, the officer discharged his weapon striking the offender."

Camden made his statement to the media at the scene of the shooting. Specifically, an October 21, 2014 Chicago Tribune article titled "Cops: Boy, 17, fatally shot by officer after refusing to drop knife," states as follows: "Officers got out of their car and began approaching McDonald, again telling him to drop the knife, [FOP Spokesman Pat] Camden said. The boy allegedly lunged at police, and one of the officers opened fire."<sup>27</sup>

#### **E. The HX486155 Case Incident Report**

On October 29, 2014, March submitted an Original Case Incident Report under RD Number HX486155, with the event number of 1430116812 and the "Case ID" of 9837884 CASR229.<sup>28</sup> The report identified March as the Reporting Officer and Detective/Investigator, and Sergeant Daniel Gallagher as the Approving Supervisor. The report classified the incident as "Assault – Aggravated; Knife/Cutting Instr," listed the "Occurrence Location" as 4101 S Kildare Blvd. and

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<sup>25</sup> OIG 15-0564 003095-114.

<sup>26</sup> OIG 15-0564 003852.

<sup>27</sup> OIG 15-0564 015188-015190. In a February 24, 2016 OIG interview, Camden, when asked who his source was for the statement that McDonald "lunged at police," said that that information came from a FOP union representative who was at the scene of the shooting. However, Camden could not recall which union representative provided him with that information.

<sup>28</sup> OIG 15-0564 003299-300.

the “Occurrence Date” as October 20, 2014 at 9:47 p.m. The report listed Rudy Barillas as the victim, Gaffney, Van Dyke, and Walsh as additional victims, and McDonald as “Suspect # 1.” The narrative section of the report states as follows:

The offender in this incident, Laquan McDonald, committed an aggravated assault against the victim, Rudy Barillas, by attempting to cut Barillas with a knife. Barillas called 9-1-1. Chicago Police Officers Thomas Gaffney, Jason Van Dyke and Joseph Walsh responded to Barillas’ call. McDonald committed aggravated assaults against the three officers, finally forcing Officer Van Dyke, in defense of his life, to shoot and kill McDonald. Details of this investigation are reported under the Homicide/Justifiable, recorded under Records Division number HX475653.

#### **F. CPD Evidence Submission Form**

March submitted a CPD Evidence Submission Form to the Illinois State Police, listing an RD number of HX475653, identifying McDonald as the suspect and Gaffney, Van Dyke, and Walsh as victims.<sup>29</sup> March, among other requests, asked that McDonald’s knife be examined for latent fingerprints and, if any were found, that they be compared to the fingerprints of McDonald. The form contains a “Detective’s Comments” section, which states in relevant part as follows: “The offender, Lequan [sic] McDonald, assaulted the three victim Chicago Police Officers with a knife, and was shot and killed by victim Police Officer Jason Van Dyke.” An Evidence Coordinator reviewed March’s submission on November 3, 2014.

#### **G. HX475653 Case Supplementary Reports**

On March 15, 2015, March submitted two case supplementary reports under the R.D. Number HX475653. Lieutenant Anthony Wojcik approved both reports on March 16, 2015.<sup>30</sup> The first CSR, which March submitted at 6:23 p.m., has a Case ID of 9825613 and a Sup ID of 10988891 CSR339 (the 339 CCR), and is described as a “Field Investigation Progress-Violent (Scene)” report.<sup>31</sup> The second CSR, which March submitted at 6:26 p.m., has a “Sup ID” of 10992767 CASR301 (the 301 CSR), and is described as a “Field Investigation Exc. Cleared Closed (Other Exceptional)” report.<sup>32</sup> Both CSRs list the original and last “Offense Classification” as “Assault/Aggravated Po: Knife/Cut Instr.,” the “Date of Occurrence” as October 20, 2014 at 9:57 p.m., and the “Address of Occurrence” as 4112 S Pulaski Rd. Both CSRs further list Van Dyke, Walsh, Gaffney, and McElligott as the victims, McDonald as the offender, March as the reporting officer and primary detective assigned, and Wojcik as the approving supervisor. Finally, both CSRs state that they are the “report of” March, Wojcik, Gallagher, and the “Bureau

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<sup>29</sup> OIG 15-0564 003175-76.

<sup>30</sup> Wojcik retired from CPD effective May 16, 2016.

<sup>31</sup> OIG 15-0564 003034-56.

<sup>32</sup> OIG 15-0564 003057-79.

of Detectives – Area Central.”

The 301 CSR contains, among other information, his summaries of the interviews he conducted of the officers who were present when Van Dyke shot McDonald, as well as summaries of the interviews CPD conducted of civilian witnesses to the events of October 20, 2014. The 339 CSR contains, among other information, an inventory of the evidence recovered and an identification of the personnel assigned to the case and the witnesses to the relevant events. March also notes in the 339 CSR that McDonald was “Taken To” Mount Sinai Hospital by CFD Ambulance 21, was “Pronounced By” Dr. Pitzele, at Mount Sinai Hospital on October 20, 2014 at 22:42, and lists the “Medical Examiner Case Number” as 2014-01071.<sup>33</sup> Immediately above the “Taken To” section of the 339 CSR, is an “Injuries” section that describes the location of the entrance and exit wound (if one existed) of each gunshot wound McDonald received.

1. Officer Statement Summaries

- a) *Van Dyke*

The 301 CSR includes a summary of the statements that Van Dyke provided to March on October 20, 2014 and October 21, 2014, respectively. The following is an excerpt of Van Dyke’s October 20, 2014 statement:

Officer Van Dyke exited the vehicle on the right side and drew his handgun. As Van Dyke stood in the street on Pulaski, facing northbound, toward McDonald, McDonald approached southbound. McDonald was holding the knife in his right hand, in an underhand grip, with the blade pointed forward. He was swinging the knife in an aggressive, exaggerated manner. Van Dyke ordered McDonald to “Drop the knife!” multiple times. McDonald ignored Van Dyke’s verbal direction to drop the knife and continued to advance toward Van Dyke.

When McDonald got to within 10 to 15 feet of Officer Van Dyke, McDonald looked toward Van Dyke. McDonald raised the knife across his chest and over his shoulder, pointing the knife at Van Dyke. Van Dyke believed McDonald was attacking Van Dyke with the knife, and attempting to kill Van Dyke. In defense of his life, Van Dyke backpedaled and fired his handgun at McDonald, to stop the attack. McDonald fell to the ground but continued to move and continued to grasp the knife, refusing to let go of it. Van Dyke continued to fire his weapon at McDonald as McDonald was on the ground, as McDonald appeared to be attempting to get up, all the while continuing to point the knife at Van Dyke. The slide on Van Dyke’s pistol locked in the rearward position, indicating the weapon was empty. Van Dyke performed a tactical reload of his pistol with a new magazine and then assessed the situation.

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<sup>33</sup> OIG 15-0564 003046-47.



McDonald was no longer moving and the threat had been mitigated, so Officer Van Dyke and Officer Walsh approached McDonald. McDonald was still holding the knife in his right hand. Van Dyke continued to order McDonald to “Drop the knife!” Officer Walsh told Van Dyke, “I have this.” Van Dyke then used his handgun to cover Walsh as Walsh walked up and forcibly kicked the knife out of McDonald’s right hand, thereby eliminating the threat to the officers.<sup>34</sup>

The 301 CSR summarized Van Dyke’s October 21, 2014 statement in relevant part as follows:

[Van Dyke] related the same sequence of events as documented in his original interview at the scene of the incident.<sup>35</sup> Van Dyke additionally articulated the reasoning behind his decision to use deadly force against the offender in this incident, Laquan McDonald. Van Dyke was aware of the radio transmissions from Officer Thomas Gaffney, on Beat 815R, that McDonald was armed with a knife. Van Dyke was aware that McDonald had attacked the officers on Beat 815R by slashing the tire of their police vehicle.

As he confronted McDonald at 4112 South Pulaski Road, Van Dyke saw that McDonald was in fact, armed with a knife, a deadly weapon. Van Dyke was aware of the widely accepted teaching in law enforcement that an assailant armed with a knife was considered a deadly threat, if within 21 feet, because it was possible for such an assailant to close that distance and attack with the knife before a defensive shot could be fired from a handgun.<sup>36</sup> Van Dyke was also aware of the existence of throwing knives, which can be thrown from a distance, as well as spring loaded knives, which propel a blade through the air from the knife handle. Van Dyke also said he recalled a previously issued Chicago Police Department bulletin warning of a weapon which appeared to be a knife but which actually was capable of firing a bullet, making it a firearm.<sup>37</sup>

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<sup>34</sup> March completed a General Progress Report (GPR) relating to his October 20, 2014 interview of Van Dyke that contain March’s handwritten notes of the interview. OIG 15-0564 003239-41. March’s handwritten notes of the interview do not differ in any significant way from the summary of Van Dyke’s statement in the CSR.

<sup>35</sup> March’s GPR relating to his October 21, 2014 interview of Van Dyke stated: “Same details.” The rest of March’s handwritten notes of the interview do not differ in any significant way from the summary of Van Dyke’s statement in the CSR. OIG 15-0564 003254.

<sup>36</sup> On April 29, 2016, OIG spoke with CPD Deputy Chief Director of Training Keith Calloway. Calloway is familiar with the so-called “21-foot rule.” Calloway characterized the 21-foot rule as “junk science” as the theory behind it has never been scientifically proven, and stated that it has never been part of CPD’s training process. See OIG Investigative Report of Call with Keith Calloway.

<sup>37</sup> March wrote in the 301 CSR that a search was subsequently conducted for the bulletin Van Dyke referenced and that an “Officer Safety Alert number 2012-OSA0297,” issued on December 4, 2012, was located. See OIG 15-0564 003310. March wrote that “[i]t was a warning regarding a ‘revolver knife’ which was capable of firing .22 caliber cartridges.”

*b) Walsh*

The following is an excerpt of Walsh's October 20, 2014 statement<sup>38</sup>:

[A]s Laquan McDonald ran eastbound through the Burger King parking lot, Walsh used the police vehicle he was driving to block McDonald from entering the restaurant.

As McDonald ran southbound on Pulaski Road, from the Burger King, Walsh pursued McDonald in the police vehicle. Walsh drove southbound in the northbound lanes to get ahead of McDonald, keeping the police vehicle between McDonald and a Dunkin' Donuts restaurant, on the east side of Pulaski. As their vehicle passed McDonald, Officer Van Dyke opened the right front door of their vehicle, to exit the truck and confront McDonald. Walsh, realizing that at this point they were too close to the armed McDonald to safely exit the vehicle, told Van Dyke to wait until they got further ahead of McDonald. Walsh drove further south on Pulaski. He stopped his vehicle south of McDonald and exited the driver's door as Van Dyke exited the right side of the vehicle. Walsh drew his handgun when he exited the vehicle.

Officer Walsh came around the rear of the police vehicle and joined Officer Van Dyke on the right side of the vehicle. Walsh also stood in the street on Pulaski, facing northbound, as McDonald walked southbound toward the officers. Walsh ordered McDonald to "Drop the knife!" multiple times as McDonald approached the officers.

Officer Walsh also backed up, attempting to maintain a safe distance between himself and McDonald. McDonald ignored the verbal direction given by both Walsh and Officer Van Dyke, and continued to advance toward the officers. When McDonald got to within 12 to 15 feet of the officers he swung the knife toward the officers in an aggressive manner. Van Dyke opened fire with his handgun and McDonald fell to the ground. Van Dyke continued firing his weapon at McDonald as McDonald continued moving on the ground, attempting to get up, while still armed with the knife.

When the gunfire stopped and McDonald was not moving anymore, Walsh approached McDonald with Van Dyke. Walsh continued to order McDonald to "Drop the knife!" multiple times, as McDonald was still holding the knife in his right hand. Walsh forcibly kicked the knife out of McDonald's hand and then notified the dispatcher on the police radio that shots had been fired by the police. An ambulance was also requested for McDonald.

As they waited for the ambulance to respond to the scene, Officer Walsh told

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<sup>38</sup> The first paragraph of the Walsh statement summary provides: "Walsh related the same facts as his partner, Officer Jason Van Dyke."

McDonald to ‘hang in there,’ and that an ambulance was on the way.

Officer Walsh said he believed McDonald was attacking Walsh and Officer Van Dyke with the knife and attempting to kill them when the shots were fired. Walsh stated he did not fire his handgun because Van Dyke was in the line of fire between Walsh and McDonald. Walsh thought Van Dyke fired eight or nine shots total.<sup>39</sup>

*c) Fontaine*

The 301 CSR summarizes Fontaine’s October 20, 2014 statement in relevant part as follows:

Fontaine was working with Police Officer Ricardo Viramontes. The two officers were assigned to a marked vehicle. Viramontes was driving the vehicle and Fontaine was the passenger.

The two officers responded to the request for assistance made by Beat 815R, regarding a man with a knife at 41st Street and Pulaski Road. Officer Viramontes drove northbound on Pulaski. When they arrived at the scene of this incident, in front of the Dunkin’ Donuts restaurant, Officer Fontaine saw a black male subject, now known as Laquan McDonald, walking southbound in the street, with a knife in his right hand. McDonald was walking sideways, with his body facing east, toward Officers Jason Van Dyke and Joseph Walsh. These two officers were standing in the middle of the street, on the right side of their police vehicle, which was facing southbound. Fontaine heard the officers repeatedly order McDonald to “Drop the knife!” McDonald ignored the verbal direction and instead, raised his right arm toward Officer Van Dyke, as if attacking Van Dyke. At this time Van Dyke fired multiple shots from his handgun, until McDonald fell to the ground and stopped moving his right arm and hand, which still grasped the knife. The gunshots were rapid fire, without pause. Officer Walsh then kicked the knife out of McDonald’s hand.<sup>40</sup>

*d) Viramontes*

The 301 CSR summarizes Viramontes’s October 20, 2014 statement in relevant part as follows<sup>41</sup>:

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<sup>39</sup> Detective March completed a GPR relating to his interview of Walsh that contains March’s handwritten notes of the interview. OIG 15-0564 003242–43. March’s handwritten notes of the interview do not differ in any significant way from the summary of Walsh’s statement in the CSR.

<sup>40</sup> Detective March completed a GPR relating to his interview of Fontaine that contains March’s handwritten notes of the interview. OIG 15-0564 003252. March’s handwritten notes of the interview do not differ in any significant way from the summary of Fontaine’s statement in the CSR.

<sup>41</sup> The first paragraph of the Viramontes’s statement summary provides: “Viramontes related the same facts as his partner, Officer Dora Fontaine.”

[W]hen [Viramontes] exited his police vehicle, at the scene, he observed a black male subject, now known as Laquan McDonald, walking southbound on Pulaski Road, in the middle of the street, holding a knife in his right hand. Viramontes heard Officer Jason Van Dyke repeatedly order McDonald to “Drop the Knife!” McDonald ignored the verbal direction and turned toward Van Dyke and his partner, Officer Joseph Walsh. At this time Van Dyke fired multiple shots from his handgun. McDonald fell to the ground but continued to move, attempting to get back up, with the knife still in his hand. Van Dyke fired his weapon at McDonald continuously, until McDonald was no longer moving.<sup>42</sup>

e) *Sebastian*

The following is an excerpt of the 301 CSR summary of Sebastian’s October 20, 2014 statement:

Officer Sebastian observed a black male subject, now known as Laquan McDonald, running southeast bound through the parking lot of the Burger King restaurant. Beat 845R pursued McDonald in their police vehicle, through the parking lot, toward Pulaski. Sebastian told Officer Mondragon to drive back out onto Pulaski to assist in the pursuit. McDonald ran out onto Pulaski and continued to run southbound down the middle of the street. Beat 845R pursued McDonald in their vehicle, southbound on Pulaski, followed by Beat 813R. As McDonald ran southbound on Pulaski, Sebastian saw the knife in his right hand. McDonald was waving the knife.

Beat 845R stopped their vehicle ahead of McDonald, between McDonald and the Dunkin’ Donuts restaurant on the east side of Pulaski. Officers Joseph Walsh and Jason Van Dyke exited their vehicle and drew their handguns. McDonald turned toward the two officers and continued to wave the knife. Sebastian heard the officers repeatedly order McDonald to “Drop the knife!” McDonald ignored the verbal directions and continued to advance on the officers, waving the knife. Officer Sebastian heard multiple gunshots and McDonald fell to the ground, where he continued to move. Sebastian did not know who fired the shots, which were fired in one continuous group. She then saw Officer Walsh kick the knife out of McDonald’s hand.<sup>43</sup>

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<sup>42</sup> Detective March completed a GPR relating to his interview of Viramontes that contains March’s handwritten notes of the interview. OIG 15-0564 003253. March’s handwritten notes of the interview do not differ in any significant way from the summary of Viramontes’ statement in the CSR.

<sup>43</sup> Detective March completed a GPR relating to his interview of Sebastian that contains March’s handwritten notes of the interview. OIG 15-0564 003248. March’s handwritten notes of the interview do not differ in any significant way from the summary of Sebastian’s statement in the CSR.

*f) Mondragon*

The following is an excerpt of the 301 CSR summary of Mondragon's October 20, 2014 statement<sup>44</sup>:

Officer Mondragon added that as she drove westbound on 40th Street, she saw Officer McElligott running eastbound through the Burger King parking lot. She made a U-Turn and drove back out onto Pulaski Road. Mondragon turned southbound onto Pulaski. She saw Laquan McDonald running southbound on Pulaski, in the middle of the street. As she got closer she could see McDonald was holding a knife in his right hand. He was waving the knife.

Officer Mondragon saw Officers Joseph Walsh and Jason Van Dyke outside of their police vehicle. She heard the officers repeatedly ordering McDonald to "Drop the knife!" as McDonald got closer and closer to the officers, continuing to wave the knife. As she was placing her vehicle transmission into Park, Mondragon looked down and heard multiple, continuous gunshots, without pause. Mondragon then saw McDonald fall to the ground. Mondragon did not know who fired the shots.<sup>45</sup>

2. The 301 CSR's Findings and Conclusions

The 301 CSR includes several findings and conclusions regarding the shooting. Specifically, it states that "[t]he recovered in-car camera video from Beats 845R and 813R was viewed and found to be consistent with the accounts of all of the witnesses."<sup>46</sup> The 301 CSR further states:

The above to-date investigation determined that Laquan McDonald was an active assailant who, while armed with a dangerous weapon, used force likely to cause death or serious injury to a private citizen when he attacked Rudy Barillas; threatened the imminent use of force likely to cause death or serious injury when he incised the tire and stabbed the windshield of a Chicago Police Department vehicle occupied by Officer Thomas Gaffney; and initiated imminent use of force likely to cause death or serious injury when he initiated an attack on Officers Jason Van Dyke and Joseph Walsh. The above investigation concluded that Officer Jason Van Dyke's use of deadly force, the discharging of his duty firearm,

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<sup>44</sup> The first paragraph of Mondragon's statement summary provides: "Mondragon related the same facts as her partner, Officer Daphne Sebastian."

<sup>45</sup> Detective March completed a GPR relating to his interview of Mondragon that contains March's handwritten notes of the interview. OIG 15-0564 003249. March's handwritten notes of the interview do not differ in any significant way from the summary of Mondragon's statement in the CSR.

<sup>46</sup> OIG 15-0564 003075.

was within the bounds of the Chicago Police Department's use of force guidelines, and in conformity with local ordinances and state law.<sup>47</sup>

On March 15, 2015 at 5:33 p.m., less than an hour before March submitted the CSR, Wojcik emailed March a Microsoft Word document titled "Conclusion." The word document contains language almost identical to the above-quoted paragraph.

### 3. The 339 CSR's Narrative and Findings

The "Manner/Motive" section of the 339 CSR states as follows:

Laquan McDonald was shot and killed by Chicago Police Officer Jason Van Dyke while McDonald was committing an aggravated assault with a knife against Officer Van Dyke and his partner, Chicago Police Officer Joseph Walsh. McDonald also committed an aggravated assault with a knife against Chicago Police Officers Thomas Gaffney and Joseph McElligott, when McDonald stabbed the right front tire and windshield of their police vehicle, and an aggravated assault with a knife against civilian, Rudy Barillas, immediately prior to being confronted by Officers Van Dyke and Walsh. / Peace officer interceding in a felony, in the line of duty-Defense of life (Offender apparently attempting to defeat arrest).<sup>48</sup>

The "Just Homicide Description" section of the 339 CSR states: "Criminal Killed By Police Officer."<sup>49</sup> The "Additional Just Homicide Descr." section of the 339 CSR states: "Criminal Attacked Officer That Officer Killed Criminal."

## H. **OIG Interview of Chief Medical Examiner Ponni Arunkumar**

On July 22, 2016, OIG investigators interviewed Cook County Office of Medical Examiner (CCME) Chief Medical Examiner Ponni Arunkumar via telephone. Cook County Executive Officer James Sledge and CCMO General Counsel Robert Meza were also on the call. In summary, Arunkumar stated as follows.

Arunkumar has been the Chief Medical Examiner since mid-July of 2016. Prior to assuming that title, Arunkumar was a Deputy Medical Examiner for four years. Arunkumar began working for CCMO in 2003.

CCMEO assistant medical examiners, also referred to as pathologists, are assigned autopsy cases every morning. Denika Means was assigned to the Laquan McDonald autopsy through the normal case assignment process. Means would have reviewed the ME2014-01071 case report

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<sup>47</sup> OIG 15-0564 003078.

<sup>48</sup> OIG 15-0564 003047-48.

<sup>49</sup> OIG 15-0564 003036.



after receiving the McDonald autopsy assignment to learn what the case was about generally. The information in the case report would have caused Means to review the X-Rays and McDonald's body for gunshot entry and exit wounds as she determined the cause and manner of McDonald's death. Specific information in the case report about McDonald lunging at the Chicago police officers would not have impacted Means's conclusion about the cause and manner of McDonald's death.

The wording "case history" in the opinion section of the McDonald postmortem examination report is not standardized language used by pathologists. Rather, it is a generic term that Means chose to use. Another pathologist could have used the wording "circumstances of the case" or something similar. Means's intention in stating "case history" was to state that she used a variety of items to formulate her conclusion related to the cause and manner of McDonald's death. The items would have included, but not been limited to, the case report, the toxicology report, and observations from McDonald's autopsy.

### **I.      OIG Interview of Briggs**

On July 20, 2016, OIG investigators interviewed CCME Investigator I Earl Briggs under oath. The interview was transcribed by a certified court reporter. Christopher Kalka, Chief of Investigations for CCME, was also present for the interview. In summary, Briggs stated as follows.

Briggs was hired by CCME in December 2012 as an Investigator Aide and, at the time of his interview, was an Investigator I. Briggs did not recall what his title was on October 20, 2014. The primary function of an Investigator I and Investigator Aide is to assist the Cook County pathologists in determining the cause and manner of trauma-related deaths. Briggs works from 11 p.m. to 7 a.m., the same hours he was working on October 20, 2014.

CCME creates a case report for every trauma-related death in Cook County. Briggs described a CCME case report as a "narrative of the investigation." Briggs OIG Tr. 11:2-3. CCME is usually notified by police officers, hospital workers, or a doctor regarding a trauma-related death, and then the CCME investigator "[g]et[s] some basics, you know, some circumstances to exactly what happened." Briggs OIG Tr. 14:8-9. With respect to shooting deaths, Briggs determines the decedent's name, address, how he or she was identified, where the decedent was shot, and the circumstances of death. According to Briggs, if CCME receives the notification of a shooting death via telephone, the officer who calls in would provide that information. After the investigator conducts the initial interview, the investigator completes the case report within 24 hours. The investigator submits the case report to the shift supervisor and then it goes to the deputy chief and deputy. After the case report is approved, it is read by the pathologist.<sup>50</sup> Because Briggs works midnights, he rarely has interactions with the pathologists regarding his case reports. Briggs said he is "definitely gone" by the time they are doing their examinations. Briggs OIG Tr. 27:21.

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<sup>50</sup> Kalka explained that CCME investigators have to finish their reports by 6:30 a.m. because that is when the pathologists are assigned their cases.

With respect to the ME 2014-01071 case report, Briggs recounted that on the night of October 20, 2014, he got a call from a person identifying himself as Detective March. Briggs was at his desk when he received the call. During that phone call, March provided Briggs with a “preliminary” narrative of the McDonald shooting. Briggs OIG Tr. 34:16. When asked whether the case report accurately reflected what March told him during their phone conversation, Briggs responded: “To the best of my knowledge.” Briggs OIG Tr. 34:20. Briggs did not believe that he took notes during his interview of March. Rather, Briggs said his general practice when completing a case report is to type up the information the interviewee is providing as he or she provides it. According to Briggs, he was typing as March was speaking.

When asked whether he recalled March saying to him that “The subject lunged at the officers with a knife,” Briggs responded: “Yes.” Briggs OIG Tr. 37:4-7. Briggs added: “If it’s in my report, he said it.” Briggs OIG Tr. 34:9. Briggs’ general practice, especially with officer-involved shootings, is to “pretty much repeat what I’m going to put on paper” to the detective:

OIG:                So you would have read back to March, ‘Here’s what I got’—

Briggs:            ‘Does this sound’—I hate to use the word, ‘good’—‘Does this sound good? Da, da, da, da, ‘Officers responded, the guy pointed the gun at him, you know, are you okay with that?’ ‘Yes.’

Briggs OIG Tr. 37:12-20. Briggs reads his report to the interviewee because he “need[s] a confirmation.” Briggs OIG Tr. 38:3. Briggs did not recall whether he read the McDonald case report narrative to March, but said “it’s my normal practice.” Briggs OIG Tr. 38:7-8. March did not tell Briggs that a CPD dashcam recorded McDonald’s shooting and Briggs did not ask him whether there was any video of the shooting.

Briggs did not talk to anyone else at CPD regarding the McDonald case report. According to Briggs, “[e]verything that’s on this report was related to [him] by Detective March.” Briggs OIG Tr. 68:14-15.

Briggs acknowledged that he made a typographical error in the narrative section of the report when he stated that March identified the date of the shooting as October 19, 2014. Briggs did not recall having any follow-up conversation with March regarding the shooting.

CCME Investigator I Anthony King approved the McDonald case report. King was the senior Investigator the night of October 20, 2014. Briggs did not know whether anyone other than King reviewed his report, but assumed that the CCME Deputy Chief and Chief would have reviewed it as well because it was an officer-involved shooting. When asked whether anyone else participated in the drafting of the McDonald report, Briggs responded: “I would say no.” Briggs OIG Tr. 51:7.

The purpose of a postmortem examination report is to “determine cause and manner of death.” Briggs OIG Tr. 54: 13-14. Briggs did not believe he had any communications with Means prior to her examination of McDonald. Briggs thought that Means would have had a copy of his case

report prior to her examination of McDonald but did not know for sure. Briggs said it was “procedure” for the assistant medical examiners to read the investigators’ case reports. Briggs OIG Tr. 55:5.

## **J. OIG Interview of Fontaine**

On March 16, 2016, OIG investigators interviewed Officer Dora Fontaine under oath after informing her of her administrative rights orally and in writing. She provided oral and written acknowledgement of the reading of those advisements. The interview was transcribed by a certified court reporter. Fontaine’s attorney, Jennifer Russell, was also present for the interview. In summary, Fontaine stated as follows concerning her interactions with March on the night of October 20, 2014, and the morning of October 21, 2014.

### **1. March’s October 20, 2014 Interview of Fontaine**

Fontaine and her partner Ricardo Viramontes were present on October 20, 2014, when Van Dyke shot McDonald. Fontaine subsequently spoke to Detective March at the scene of the shooting. March approached Fontaine while she was in her vehicle working on a case report. She exited the car and spoke with him. March asked her for the RD number of the investigation and which beat cars were on the scene. March also asked where Fontaine and Viramontes had been during the shooting and if she had seen anything. Fontaine told him that she had and provided details regarding the shooting. March had a pen and pad, but Fontaine did not recall him writing anything down. Her conversation with March lasted less than 15 minutes.

OIG asked Fontaine to review the statements attributed to her in the 301 CSR and identify any statements she did not make to March. She pointed out the sentence in the CSR which reads, “McDonald ignored the verbal direction, instead raised his right arm toward Officer Van Dyke as if attacking Van Dyke,” and said “I don’t recall telling [March] that.” Fontaine 3/16/16 OIG Tr. 115:19-20. Fontaine said that she did not see McDonald raise his right arm toward Van Dyke. When asked whether the statements attributed to her in the 301 CSR were factually accurate, Fontaine said that the statement that McDonald raised his arm as if attacking Van Dyke was not accurate. Fontaine added: “I never made that statement.” Fontaine 3/16/16 OIG Tr. 134:7.

### **2. Area Central**

After completing the case report, Fontaine and Viramontes went to Area Central. While at Area Central, March asked Fontaine to go into a small Area Central office and then showed her video of the McDonald shooting on a computer monitor. There was another person in the room who ran the video, but Fontaine did not know the identity of that person. Fontaine recalled, “[March] was showing me the video and he says, when [McDonald] was walking – he says, ‘It looks as if he’s turning here.’ And I was like, ‘Oh, it does.’” Fontaine 3/16/16 OIG Tr. 72:21-24. Fontaine further recalled that March asked, “Oh, is this where he’s walking?” Fontaine 3/16/16 OIG Tr. 73:16. Fontaine said that it was, and March asked, ““You see he kind of turns around?”” Fontaine 3/16/16 OIG Tr. 73:17-18. Fontaine agreed that it did look as though McDonald “kind of turns.” Fontaine 3/16/16 OIG Tr. 73:20. Fontaine did not recall March taking notes during

their interaction. March did not ask her any other questions after showing her the video, and she returned to the main room.

#### **K.     OIG Interview of McElligott**

On May 9, 2016, OIG investigators interviewed Officer Joseph McElligott under oath after informing him of his administrative rights orally and in writing. He provided oral and written acknowledgement of the reading of those advisements. The interview was transcribed by a certified court reporter. McElligott's attorney, Jennifer Russell was present for the interview. In summary, McElligott stated as follows concerning his observations of the interactions that occurred between CPD detective and Van Dyke and Walsh at Area Central on the morning of October 21, 2014.

Approximately four to five hours after the McDonald shooting, McElligott drove to Area Central with Gaffney. While at Area Central, McElligott saw CPD detectives and officers looking at the Dunkin' Donuts video. McElligott attempted to watch the video over the detectives' shoulders but could not see very much. Detectives whom McElligott could not identify were talking to either Van Dyke or Walsh while the video was playing. McElligott stated that there were "probably" a couple of other officers watching the video as well. McElligott OIG Tr. 71:16. The detectives were "running through" what was happening on the video as it played and trying to see where Van Dyke and Walsh were in relation to McDonald. McElligott OIG Tr. 72:16. The detectives were focused on the officers' actions and McElligott remembered them saying at one point that Walsh or Van Dyke or both were backpedaling:

McElligott:     [T]hey were kind of just back and forth rewinding and showing  
                    [the video] again.

OIG:             And the detectives were saying—

McElligott:     Their placement on the scene.

OIG:             -- 'Okay, look. It looks like you're back-pedaling here?'

McElligott:     Yes.

OIG:             And they're agreeing with him?

McElligott:     Yes.

McElligott OIG Tr. 74:20-75:4. McElligott did not recall any dashcam videos being played at Area Central that night.

**L.      **OIG Interviews of March******1.      April 26-27, 2016 Interview**

On April 7, 2016, pursuant to Section 6.1 of CBA between the City of Chicago and FOP, OIG, through CPD's Bureau of Internal Affairs, served March with, among other documents, a Notification of Interview, Notification of Allegations, and a copy of the 301 and 339 CSRs. In addition, OIG provided March with the dashcam footage from 813R and 845R and the security camera footage from Dunkin' Donuts.

On April 26 and April 27 of 2016, OIG investigators interviewed March under oath after informing him of his administrative advisements orally and in writing. He provided oral and written acknowledgment of the reading of those advisements. The interview was transcribed by a certified court reporter. March's attorney, James McKay, was present for the interview. In summary, March stated as follows.

As of October 20, 2014, March was a CPD detective assigned to Area Central. March worked on a homicide team that was supervised by Gallagher. That team had two lieutenants, Wojcik and Osvaldo Valdez. Their commander at the time was Eugene Roy.

*a)      The Scene of the Shooting*

On the night of October 20, 2014, March was on-duty at Area Central headquarters when he received a call from Gallagher. Gallagher informed him that there had been a police-involved shooting and that the case was going to be assigned to March. March then drove to the scene of the shooting by himself.

When March arrived, he had a brief conversation with Gallagher, who identified the shooter as Van Dyke and told March where Van Dyke was. March located Van Dyke, who was standing outside his vehicle, introduced himself and told Van Dyke he was the detective assigned to do "the immediate follow-up investigation." March 4/26/16 OIG Tr. 64:18-9. March asked Van Dyke if he was okay and Van Dyke proceeded to provide March with a narrative of what occurred prior to and during the shooting. No one else was present during their conversation. In that initial conversation, Van Dyke told March, among other details, that he and Walsh exited their vehicle, drew their weapons and pointed them at McDonald. Van Dyke shouted to McDonald multiple times "Drop the knife. Drop the knife." However, McDonald did not make any indication that he was going to drop the knife. McDonald continued walking generally in a southbound directions and when he got 10 to 15 feet away from Van Dyke, turned directly towards Van Dyke and began to bring the knife in his right hand up and point it at Van Dyke. Van Dyke said that at that moment he felt McDonald was beginning to attack him and fired his handgun at McDonald in defense of his life.

With respect to his initial interview of Van Dyke, March stated: "I didn't take the time to write down everything he was telling me. I took a few quick notes identifying who he was . . . ." March 4/26/16 OIG Tr. 73:2-4. March further stated: "[I]t was later on, once we had most of the



facts, that I took the time to stand there with him and actually, you know, write down the story so I accurately had what he remembered.” March 4/26/16 OIG Tr. 73:17-21. March did not know how much time transpired between his first and second interview of Van Dyke.

March then spoke to Walsh. According to March, Walsh relayed information similar to what Van Dyke had told him. March took “initial cursory notes” during his interview of Walsh and then interviewed Walsh again later. March 4/26/16 OIG Tr. 76:4-5. During that second conversation, March took notes on a GPR form.

March eventually spoke to the other eight officers who were present when Van Dyke shot McDonald, but he did not recall the order in which he did so. March stated that for each of those officers, “[t]here were two primary interviews, one was the initial first verbal interview to find out what that officer’s involvement was. And then ultimately I went back and actually, when I had the time, once things slowed down a little bit and I had the time, I took a more detailed GPR of what each of those officers told me.” March 4/26/16 OIG Tr. 92:14-21. March did not have an independent recollection of “any differences or additions between the first verbal interview and the second interview where [he] created the GPRs.” March 4/27/16 OIG Tr. 132:22-133:1. March stated that he may have had follow-up questions for certain of the officers as he was being asked questions by his chain of command. March later added that during his initial conversations with the officers he may have noted in a GPR their names, star numbers, and whether they were the passenger or driver of their vehicle. March did not interview any other officers or civilian witnesses at the scene. March did not believe that he talked to anyone from FOP at the scene.

With respect to his interviews of Fontaine, March said he spoke to her alone, “probably somewhere near her police vehicle.” March 4/26/16 OIG Tr. 128:14-5. March denied fabricating any of the statements attributed to Fontaine in the 301 CSR or the GPR relating to Fontaine’s interview. March claimed that Fontaine stated to him on October 20, 2014, that McDonald raised his right arm toward Van Dyke as if attacking him.

After March had his initial conversation with Walsh, he then went to 813R and saw the dashcam video captured by 813R’s in-car video system on a small monitor in the vehicle. March sat in the driver’s seat of the vehicle to watch the video, which was “queued up to just immediately prior to the confrontation between McDonald and Van Dyke.” March 4/26/16 OIG Tr. 91:1-2. March estimated that he ultimately watched the 813R video three to five times at the scene of the shooting.

March also watched the Dunkin’ Donuts video at the scene of the shooting. Detective Richard Hagen played it on his laptop out on Pulaski after he had recovered it from the Dunkin’ Donuts. March said he was sure other people were present when he watched the video, but he could not recall who those people were.

When Deputy Chief David McNaughton, who functioned as the on-call incident commander, arrived to the scene, March gave him a briefing on the incident. March and McNaughton then did a ride-through in McNaughton’s vehicle of the relevant sites and locations, starting with the



trucking lot at 41st and Kildare. March thought that ride-through took place in the middle of March's officer interviews.

While at the scene of the shooting, March also had a series of conversations with Gallagher in which March and Gallagher informed each other what other personnel were doing or had learned. More specifically, March said that he was conducting officer interviews while CPD personnel were attempting to recover video from the area and conducting a canvass to identify potential witnesses.

March left the scene of the shooting "well after midnight" and drove to Area Central. March 4/26/16 OIG Tr. 155:22. March believed that Detective Hagen rode with him. When he and Hagen left, the forensics personnel were "finishing up odds and ends" at the scene and Pulaski was close to being reopened. March 4/26/16 OIG Tr. 158:3.

*b) Area Central*

Once March arrived at Area Central, he collected documentation from the police personnel involved in the investigation, including the original case report authored by an 8th District beat car, the reports concerning the activities of the forensics services people, and the other detectives' GPRs. March also conferred with Gallagher multiple times regarding the coordination of activities at Area Central. Sergeant Lance Becvar had uploaded the 813R dashcam video into the CPD server and someone made it available for viewing in one of the Area Central side offices on the second floor. March looked at that video more than one time at Area Central "to make sure [he] had a good comprehension of what was shown on the video." March 4/26/16 OIG Tr. 184:23-185:1. March "may have" told the police officers that it was available for viewing. March 4/26/16 OIG Tr. 185:1. According to March, on certain occasions there might have been someone "standing behind me who was curious that was also watching it . . ." March 4/26/16 OIG Tr. 187:19-20. March denied specifically going into that side office to view the video with anyone. Rather, "[i]f someone followed me in there, or, like I said, if somebody was curious and wanted to see the video, they might have been looking over my shoulder." March 4/26/16 OIG Tr. 188:2-5. March did not recall having conversations with anyone at Area Central that night while they were watching the 813R video.

March conducted an additional interview of Van Dyke at Area Central the night of the shooting. Gallagher was present for most of the interview. March did not conduct any other interviews at Area Central that night. When asked what the purpose of that interview was, March responded: "He was the principal member involved in this incident, and I wanted to make sure I had all of the details from him that I needed to be thorough and complete." March 4/26/16 OIG Tr. 195:9-12. March added that he wanted to make sure that the notes he had taken on the scene were accurate in terms of Van Dyke's recollection of the incident and to see "if there was anything else he had – he had recalled that needed to be documented." March 4/26/16 OIG Tr. 196:17-9. Van Dyke provided a narrative of the shooting to March, and March compared that narrative to the notes he had taken before. March created a new GPR in which he added any additional information Van Dyke provided during the Area Central interview. According to March, the narrative of the shooting Van Dyke provided at Area Central did not differ at all from the

narrative he provided at the scene of the shooting. March denied that he intentionally failed to take notes of Van Dyke's Area Central narrative to prevent Van Dyke from making inconsistent statements. With respect to the allegation that March failed to properly and thoroughly document Van Dyke's Area Central statement, March stated: "There is no way to properly and thoroughly fill out a GPR. It's whatever notes the detective deems necessary." March 4/26/16 OIG Tr. 239:8-10.

According to March, the detectives assigned to the investigation did not meet at Area Central that night to discuss their findings. However, March acknowledged that he and Gallagher communicated to each other at Area Central that they both thought Van Dyke's shooting of McDonald was justified. March also communicated with McNaughton at Area Central regarding the investigation and McNaughton stated that "he thought, from everything he was aware of, that everything was fine also with the incident and the investigation and the use of force." March 4/26/16 OIG Tr. 211:7-10.

*c) Post-Area Central Investigative Activities*

On October 21, 2014, CPD detectives located the original 911 caller's wife and interviewed her. CPD also recovered additional video that day. On October 22, March interviewed Rudy Barillas. In addition, after a major case review was conducted at the Illinois State Police crime lab regarding the processing of evidence in the McDonald investigation, March prepared an evidence submission report requesting that the lab analyze certain evidence. In addition, March collected all the documentation and reports so he would have everything he needed for the case file.

On October 29, 2014, March submitted an Original Case Incident Report with the RD number HX486155. March confirmed that he drafted the narrative contained in that report. With respect to the new RD number, March explained that pursuant to the FBI's Uniform Crime Reporting guidelines, once a detective concludes that an incident is a justifiable homicide, he or she must generate a second reporting number. With respect to the McDonald investigation, it was originally reported as an assault on a peace officer with a knife because Van Dyke and Walsh were saying that McDonald had assaulted them with a knife. The investigation continued under that designation "until we became confident that it was – you know, the justifiable homicide and then we created the second [number]." March 4/27/16 OIG Tr. 108:3-5.

With respect to jurisdiction, March stated that, at the time of the shooting, for any incident where a police officer fires his handgun, CPD would conduct the "underlying criminal investigation," and IPRA would investigate whether the officer's use of the firearm or deadly force was appropriate. March 4/27/16 OIG Tr. 108:23. At the time of the McDonald investigation, "the Department's policy was to never make a statement of – as to the justifiability as to the use of force because IPRA was conducting their investigation. We would just, you know, draw conclusions based on our investigation but not make a final statement as to whether or not the officer was justified." March 4/27/16 OIG Tr. 117:1-9. March added: "it's not our responsibility to make that determination as far as justifiable, and we really aren't permitted to." March 4/27/16 OIG Tr. 118:3-5.

During the course of the investigation, there were multiple meetings involving March and some combination of the following individuals: Hagen, Gallagher, Wojcik, Valdez, and Roy. According to March, “[a]t some of those meetings, we actually played the video again and reviewed to get, you know, everyone’s – weigh in with their opinion. And everyone was in agreement with the investigation and the conclusions reached as documented in this report.” March 4/27/16 OIG Tr. 72:8-13. March also stated that Roy would sometimes come to March with “a specific question about something, and then [the two] would talk at length about the other aspects of the investigation.” March 4/26/16 OIG Tr. 257:16-19. March never had any meetings with Superintendent Garry McCarthy regarding the investigation.

*d) The CSRs*

In November and December 2014, March worked on the drafting of the CSRs “as much as [he] could.” March 4/26/16 OIG Tr. 250:24-251:1. March described the investigation as a “major case” and said: “They don’t get much bigger in terms of priority.” March 4/26/16 OIG Tr. 250:23-4. In January 2015, March and Wojcik learned that police officers with involvement in the McDonald shooting were being subpoenaed by the Cook County State’s Attorney’s Office and the FBI. March did not recall where or from whom he received this information. As a result, Wojcik told March to “hold off on doing anything” until they got some answers from their chain of command regarding the additional investigation. March 4/26/16 OIG Tr. 251:19. The investigation was put on hold from the beginning of January to the beginning of March. In March, around the time the City was negotiating a settlement with McDonald’s family, Commander Eugene Roy ordered that the reports be done right away. Roy gave that order to Wojcik and Wojcik communicated it to March. March believed that directive was prompted by the legal settlement.

Upon receiving the order, March created the original draft of the 301 CSR and then Gallagher and Wojcik reviewed it. March explained: “Gallagher and Wojcik and I worked together, you know, to—rather than dumping it all on one guy, the three of us worked together.” March 4/26/16 OIG Tr. 260:12-15. Wojcik, Gallagher, and March also had in-person meetings regarding the findings in the 301 CSR. All three were in agreement that the witness accounts were consistent with the videos of the shooting.

March noted that the 301 and 339 CSRs would normally have been combined into one report, with the 339 CSR being the first half of the report, listing the victims, witnesses, offenders, the evidence and police personnel involved, and the 301 CSR being the second half of the report, setting forth the narrative of the investigation. However, the resulting document would have had too many pages for CPD’s computer system so March broke it up into two reports. Wojcik and Gallagher played the same role in the creation of the 301 and 339 CSRs.

When asked whether anyone else was involved in the decision-making regarding the findings contained in the 301 CSR, March said that Valdez and Roy each, after attending executive management meetings in which the McDonald case was discussed, told Wojcik, Gallagher, and Roy that they agreed with their findings. No one other than Wojcik, Gallagher or March

reviewed the 301 CSR prior to its final approval by Wojcik.

In response to the allegation that the 301 CSR falsely stated that the in-car camera videos recovered from 813R and 845R were consistent with the accounts of all the witnesses to the McDonald shooting, March stated that he believed that “the video is consistent with the statements of the witnesses, that’s why I stated that in the report.” March 4/26/16 OIG Tr. 272:20-2. March added that he could and maybe should have included the Dunkin’ Donuts video in that finding. March was then asked to review certain statements in the 301 CSR and state whether he believed those statements were consistent with the 813R and 845R videos. March’s responses are summarized below:

Statement in the 301 CSR	March’s Explanation for Why the Statement is Consistent with the Available Video
<p>Van Dyke: “McDonald ignored Van Dyke’s verbal direction to drop the knife and continued to advance toward Van Dyke.”</p>	<p>“[F]rom the time Officer Van Dyke exits his vehicle until the time he fires his handgun, McDonald is walking southbound, and the distance between the two men is decreasing.” March 4/26/16 OIG Tr. 274:3-6. March later added: “[McDonald is] not walking away from the officers . . . . When the distance between two bodies or two subjects decreases, they’re moving towards each other.” March 4/26/16 OIG Tr. 317:9-318:1. March then claimed his report states that “both of the officers said in their statements that they were moving towards McDonald from the time they heard the call for assistance.” March 4/26/16 OIG Tr. 323:9-12. March further stated: “[I]t was their job to approach him. And any inference that the fact that they took a couple of steps toward McDonald somehow mitigates what McDonald did or doesn’t justify what the officers did doesn’t make any sense to me. Yes, they took a couple of steps toward McDonald, but in the grand scheme of things of what this situation—what this incident entailed, it’s a very minor fact. And it’s obvious—you can see it in the video; I’m not hiding anything.” March 4/26/16 OIG Tr. 323:23-324:10. Upon watching the 813R video, March stated that McDonald was advancing on Van Dyke from the time Van Dyke got out of 845R until shots were fired at 9:57:36 p.m. according to the 813R video’s embedded timestamp.</p>
<p>Van Dyke: “When McDonald got</p>	<p>“McDonald did look toward Van Dyke, he turned</p>

<p>within 10 to 15 feet of Officer Van Dyke, McDonald looked toward Van Dyke. McDonald raised the knife across his chest and over his shoulder pointing the knife at Van Dyke.”</p>	<p>toward his left, squared his shoulders toward Van Dyke, and you can see in the video him begin to raise the knife with his right arm, and then the rest of the movement is blocked by his body.” March 4/26/16 OIG Tr. 275:18-23. March added that “it appears that [McDonald] is raising the knife pointing it towards Van Dyke.” March 4/26/16 OIG Tr. 276:5-6.<sup>51</sup> March was then asked to identify where on the 813R video McDonald supposedly raised his knife across his chest and across his shoulder, pointing it at Van Dyke. March stopped the video approximately one second prior to the appearance of the 9:57:36 p.m. embedded timestamp and said: “Now you see the right arm has come up in front of his body. Now he’s going to continue to turn his body. You saw him begin to bring the right arm up, and now he’s going to turn the body. Now the arm is in front of his body because he’s bringing it around towards Van Dyke.” March 4/26/16 OIG Tr. 289:21-290:3.</p>
<p>Van Dyke: “Van Dyke believed McDonald was attacking Van Dyke with the knife and attempting to kill Van Dyke.”</p>	<p>“[Y]ou see McDonald turn to his left towards Van Dyke and the right arm begin to raise until it’s out of view. And then we – from that particular video, you can’t see the perspective of what Jason Van Dyke saw. So there’s nothing inconsistent with what Van Dyke said.” March 4/26/16 OIG Tr. 276:16-22.</p>
<p>Van Dyke: “In defense of his life, Van Dyke backpedaled and fired his handgun at McDonald to stop the attack.”</p>	<p>“Just prior to firing the handgun, Jason Van Dyke takes a couple of steps forward and then he begins to fire the handgun. And then because of the – I’m assuming it’s the movement of the car that has the dash cam, Van Dyke goes out of frame so then we can’t see what he’s doing while he continues to fire his handgun. So, again, there’s nothing inconsistent there.” March 4/26/16 OIG Tr. 277:3-11. March added: “[I]f you look at the Dunkin’ Donuts video, it does look like there’s movement from right to left of both officers, Van Dyke and Walsh, which I found to be consistent with them saying that they were backpedaling.” March 4/26/16 OIG Tr. 277:14-19.</p>

<sup>51</sup> During March’s April 27, 2016 interview, he noted that McDonald was shot in the chest and opined that it was that gunshot wound that caused McDonald’s body to spin to the right. March further opined that McDonald had to be facing the officers when he was struck by that shot because otherwise he could not have been shot in the chest.



	<p>Upon being shown the Dunkin' Donuts video, March stated that Van Dyke was backpedaling from 27:33 to 27:36 on that video. March then stated: "They did take a couple of steps forward, but that doesn't mean, as I said, when they're out of the frame of the dash cam video, which you can see is consistent in the Dunkin' Donuts video, it does look like after that they did backpedal." March 4/26/16 OIG Tr. 324:18-23.</p>
<p>Van Dyke: "McDonald fell to the ground but continued to move and continued to grasp the knife refusing to let go of it."</p>	<p>"While McDonald is on the ground, he continues to move. You can see his right hand. He continues to hold the knife and point it in the direction of Officer Van Dyke." March 4/26/16 OIG Tr. 279:5-8.</p>
<p>Van Dyke: "Van Dyke continued to fire his weapon at McDonald as McDonald was on the ground as McDonald appeared to be attempting to get up, all the while continuing to point the knife at Van Dyke."</p>	<p>March stated: "From Jason Van Dyke's perspective, he said it looked to him like he was getting up. I didn't find anything in the video to be inconsistent with that, and that's why I decided—I used that terminology that the video was consistent with what Van Dyke said." March 4/26/16 OIG Tr. 280:2-8.</p> <p>Upon watching the 813R video, March stated that McDonald was making attempts to get up from the ground for a period of eight seconds, starting at 9:57:38 p.m. on the video. After asking for the 813R video to be paused with the embedded time stamp showing 9:57:38 p.m., March stated that "[h]e hit the ground and he's already—his torso has moved from right to left already once right there." March 4/26/16 OIG Tr. 293:2-4. March later added: "[I]t looked to me like he was getting up, I don't see anything inconsistent here." March 4/26/16 OIG Tr. 295:3-5.</p>
<p>Walsh: "Officer Walsh also backed up attempting to maintain a safe distance between himself and McDonald."</p>	<p>March stated that Walsh's statement was consistent with the 813R, 845R and Dunkin Donuts videos. Upon being shown the Dunkin' Donuts video, March stated that Walsh was backpedaling from 27:30 to 27:33 on that video. March added: "Walsh backpedals farther [than Van Dyke], and that's why he ends up obstructed by the police vehicle. But when he backpedals, he actually backpedals behind Van Dyke." March 4/27/16 OIG Tr. 49:13-6.</p>
<p>Walsh: "McDonald ignored the verbal</p>	<p>"[T]he video shows [McDonald] continuing to move</p>



direction given by both Walsh and Officer Van Dyke and continue to advance toward the officers.”	towards the officers. The distance between McDonald and the officers decreased. And, again, we don’t have audio, but it’s clear that he is holding the knife and never drops it as he’s being ordered to.” March 4/26/16 OIG Tr. 281:1-7.
Walsh: “When McDonald got within 12 to 15 feet of the officers, he swung the knife toward the officers in an aggressive manner.”	“[B]efore Van Dyke fires his weapon, you can see McDonald turning to his left, squaring his shoulders toward the officers, and you can see the right arm begin to come up before it’s obstructed by his torso.” March 4/26/16 OIG Tr. 281:16-20. March added: “I don’t think there’s anything inconsistent in that video with what the officers are saying, and specifically Officer Walsh at this point.” March 4/26/16 OIG Tr. 282:15-8.

In response to the allegation that he falsely determined in the 301 CSR that McDonald initiated the imminent use of force likely to cause death or serious injury when he initiated an attack on Van Dyke and Walsh, March stated as follows: “I believe the video shows that Laquan McDonald turned towards the officers, raised his knife, and pointed it towards the officers. And that the video is consistent with the statement of both officers, Jason Van Dyke and Joseph Walsh, that they believed they were being attacked by Laquan McDonald, that he was armed with a deadly knife attacking them, attempting to kill them or do great bodily harm to them.” March 4/27/16 OIG Tr. 93:9-19.

In response to the allegation that the 339 CSR falsely stated in the “Additional Just. Homicide Description” section that McDonald “attacked officer, that officer killed criminal,” March responded: “Those are not my words; that is a selection I made from the drop-down menu.” March 4/27/16 OIG Tr. 139:11-12. March explained that once they had determined that they were reporting a justifiable homicide, he had to pick from the drop-down menu the most appropriate classification. However, March then said that he believes the drop-down selection he made is a true statement.

When asked whether he would change anything about the 301 CSR, March stated: “[I]f I was writing the reports today, I would write it the same way because everything in this report is totally factual as far as I believe.” March 4/27/16 OIG Tr. 134:17-20.

*e) March’s Statement*

At the conclusion of his interview, March read a statement into the record. Included in that statement was the following description of the McDonald shooting:

Officers Walsh and Van Dyke drove further south on Pulaski and stopped the police vehicle ahead of McDonald. Walsh and Van Dyke both exited their

vehicle and drew their handguns. The officers stood in the street facing northbound toward McDonald. Both officers were in uniform standing next to their marked police vehicle.

As McDonald approached southbound, he was holding the knife in his right hand in an underhand grip with the blade pointed forward. As he walked towards the officers, he swung the knife in an aggressive, exaggerated manner. Both officers ordered him to drop the knife multiple times. McDonald ignored these directions and continued to advance towards the officers with the distance between McDonald and the officers decreasing.

When McDonald got to within 10 to 15 feet of the officers, he looked toward the officers, squaring his shoulders in their direction. He raised the knife pointing it at the officers.

Officer Van Dyke, believing McDonald was attacking Van Dyke with the knife, attempting to kill Van Dyke, fired his handgun in self-defense – or in defense of his life to stop the attack.

McDonald fell to the ground but continued to move and continued to grasp the knife refusing to let go of it. Van Dyke continued to fire his weapon at McDonald as McDonald was on the ground as Van Dyke thought McDonald was attempting to get up, all the while continuing to point the knife at Van Dyke.

Van Dyke fired his pistol until the slide of the weapon locked in the rearward position indicating the weapon was empty. Van Dyke immediately loaded his weapon with a new magazine and assessed the situation. McDonald was no longer moving and the threat had been mitigated, so the officers approached McDonald. McDonald was still holding the knife in his right hand, and both officers continued to order him to drop the knife. Finally, Officer Walsh was able to approach McDonald and forcibly kick the knife out of his hand.

March 4/27/16 OIG Tr. 147:13-149:12.

## 2. July 25, 2016 Interview

On July 20, 2016, pursuant to Section 6.1 of CBA between the City of Chicago and FOP, OIG, through CPD's Bureau of Internal Affairs, served March with, among other documents, a Notification of Interview, Notification of Allegations, and a copy of the CCME ME2014-01071 Case Report.

On July 25, 2016, OIG investigators interviewed March under oath after informing him of his administrative advisements orally and in writing. He provided oral and written acknowledgment of the reading of those advisements. The interview was transcribed by a certified court reporter.

March's attorney, James McKay, was present for the interview. In summary, March stated as follows.

*a) CPD's Notification of CCME*

CPD has to notify CCME "any time we are dealing with any kind of death . . . whether it be a natural death, suicide, homicide, whatever." March 7/25/16 OIG Tr. 45:2-5. When March notifies CCME of a death, the investigator will ask him for the date and time he discovered the body, the location of the body, and the identity of the decedent. In addition, "they ask us for a brief summary of the circumstances under which we became aware of the – that there was a dead body." March 7/25/16 OIG Tr. 47:18-20. March has communicated with Cook County personnel regarding death investigations on well over 50 occasions. March has seen CCME autopsy reports and toxicology reports, but had never seen a CCME case report prior to being provided the October 21, 2014 case report by OIG.

*b) March's October 20, 2014 CCME Notification*

On October 20, 2014, March notified CCME of McDonald's death while March was at the scene of the shooting. March explained that the detectives who had responded to Mount Sinai hospital, where McDonald had been transported, learned that McDonald had been pronounced dead by the attending physician. Those detectives informed Gallagher, who was the detective supervisor in charge of the scene, that McDonald was dead, and Gallagher then provided that information to March. March decided to call CCME himself because he felt he "had the most information in one place, so to speak." March 7/25/16 OIG Tr. 51:16-7.

March called CCME from the scene of the shooting using his personal cell phone and spoke to CCME investigator Briggs. March believed that he had seen the 813R dashcam video prior to contacting Briggs. March's first statement to Briggs was that he was notifying CCME of a police officer-involved shooting and that there was a dead body. Briggs then proceeded to ask March a series of questions and March provided Briggs information in response to those questions. March did not recall providing Briggs any information absent a prompting question from Briggs. March added: "[T]o the best of my knowledge, like I said, maybe he's got a checklist that he goes through and he's asking me to fill in the blanks of his checklist." March 7/25/16 OIG Tr. 63: 4-7.

March was asked to review the second paragraph of the "Narrative" section of the CCME case report and, with respect to each sentence in that paragraph, state (1) whether he provided the information contained in that sentence to Briggs during their October 20, 2014 phone conversation; and (2) whether that information was accurate. March first stated that none of the statements in that paragraph were verbatim statements by him to Briggs. March's further responses are summarized in the below table:

Statement in CCME Case Report	March's Response Regarding the Accuracy and his Purported Provision of that Statement to Briggs
<p>"Detective March related the following; on or about 2156 hours 19 October 2014 Chicago Police 8th District Beat Car 815R responded to 41st and Kildare in reference to a "Citizen Holding a Subject".</p>	<p>March stated: "I would have told him something along the lines of some Chicago police officers responded to a call of someone holding a subject for the police at 41st and Kildare." March 7/25/16 OIG Tr. 65:1-4. With respect to the accuracy of the sentence, March stated "most of the information in that first sentence is accurate except for the date of occurrence where he documented that I said or I related that the incident occurred on 19 October 2014." March 7/25/16 OIG Tr. 64:8-11.</p>
<p>"Upon arrival Beat # 815R was confronted by the subject who threatened the officers with a 4 inch fold knife."</p>	<p>March said that he told Briggs that 815R responded to this assignment, but that the rest of the sentence is a "complete misrepresentation" of what March told Briggs that night. March 7/25/16 OIG Tr. 66:4. March said that he "never characterized this [encounter between McDonald and 815R] as [McDonald] threatening the officers with a knife," March 7/25/16 OIG Tr. 67:7-8, and that no witness said that McDonald confronted the 815R officers; rather, those officers confronted McDonald. March continued: "That having been said, I believe that the act of attacking the marked police vehicle associated with two uniformed police officers was, in fact a threat to the officers . . . ." March 7/25/16 OIG Tr. 67:9-12. Finally, March stated that McDonald's knife was always referred to as a "folding knife, seven inches in overall length with a three-inch blade," and that he never described the weapon as a "four-inch fold knife." March 7/25/16 OIG Tr. 67:23-68:5.</p>
<p>"The subject fled the scene on foot where at 4112 S. Pulaski the subject was stopped by officers assigned to Beat # 845R."</p>	<p>March believed he related all of the facts in this sentence to Briggs and that all of those facts are accurate.</p>
<p>"The officers announced their office as "Chicago Police Officers" and ordered the subject to drop the knife."</p>	<p>March related the information in this sentence to Briggs with one exception. March stated that he told Briggs that the officers announced their office, but did not tell Briggs that the officers said: "Chicago police officers, stop." March 7/25/16 OIG Tr. 70:17-24. Otherwise, March said the sentence was accurate.</p>

<p>“The subject lunged at the officers with the knife.”</p>	<p>March noted that no one ever told him that they saw McDonald lunging at anyone. March added that he never described what McDonald did during this incident as a lunge. March stated that he never told Briggs that McDonald lunged at officers with a knife. According to March, it was not accurate to state that McDonald lunged at Van Dyke and Walsh. March did not recall the exact words he used to describe McDonald’s conduct to Briggs, but claimed he “would have said something along the lines of McDonald attacked the officers or began to attack the officers.” March 7/25/16 OIG Tr. 74:4-7.</p>
<p>“Fearing for their life and attempting to stop the threat one officer (star # 9465) fired sixteen rounds from his duty weapon a Smith &amp; Wesson 9mm handgun striking the subject numerous times.”</p>	<p>March stated: “Yes, I did relay – all of the facts detailed in that sentence were related by me to Investigator Briggs, not necessarily in those exact words and certainly not in one sentence like that.” March 7/25/16 OIG Tr. 74:21-75:1. March believed that sentence was accurate.</p>
<p>“After striking the subject an ambulance was requested by the officers.”</p>	<p>March said that he relayed the information contained in that sentence to Briggs and that those facts are accurate.</p>

According to March, he did not provide to Briggs the majority of the information contained in the third paragraph of the case report’s “Narrative” section concerning the wounds McDonald sustained. March said he would have told Briggs the time that McDonald was pronounced dead and the name of the doctor. March noted that the detectives at the hospital provided him with a different spelling of the doctor’s name than the spelling Briggs used in his report. March claimed that he could not have told Briggs any of the information concerning McDonald’s gunshot wounds because at the time of his notification he only knew that Van Dyke had fired his weapon 16 times and that McDonald had been shot multiple times. March acknowledged that it was “certainly possible” that the detectives at the hospital, in addition to knowing the doctor’s name, were in possession of information concerning the location of McDonald’s gunshot wounds. March 7/25/16 OIG Tr. 78:15-6.<sup>52</sup>

March did not recall whether he informed Briggs that there was video of McDonald’s shooting or whether Briggs asked him about the existence of video. March said he did not provide Briggs with McDonald’s zip code. With respect to the statement in the case report that “Subject was

<sup>52</sup> In Detective William Johnson’s October 20, 2014 GPR, in addition to listing the name of “Dr. Pitzele,” “Mt. Sinai Hosp.,” the time of pronouncement, and McDonald’s Illinois ID number, Johnson made the following note: “26 GSW.” OIG 15-0564 003277.

positively identified by the Chicago Police ICLEAR system based on a prior Chicago Police Booking Number IR2106340,” March said that he would have told Briggs that CPD had “tentative information” coming off McDonald’s ID, and that someone ran McDonald’s name in CPD’s system and came up with a possible IR number. March 7/25/16 OIG Tr. 89:5. Finally, March stated that “[t]here is no way that I told Investigator Briggs that the temperature at the scene that night was 52 degrees. Again, he obviously went to some internet source or something, some weather site and found – you know, just looked up the temperature.” March 7/25/16 OIG Tr. 102:6-12.<sup>53</sup>

When asked whether he, at any time at the scene of the shooting on October 20, 2014, told an FOP representative that McDonald lunged at officers, March said that he “d[id] not recall ever in the past almost two years ever characterizing or describing anything that Laquan McDonald did on the night of October 20th, 2014, as a lunge to anyone.” March 7/25/16 OIG Tr. 97:6-10. March further stated that he did not remember having any conversations with FOP representatives while at the scene of the shooting “regarding the details of what happened in this incident.” March 7/25/16 OIG Tr. 97:14-5.<sup>54</sup> With respect to Pat Camden, March stated: “And I can tell you specifically Pat Camden – and I know who he is – I did not have any conversation with him at all that night.” March 7/25/16 OIG Tr. 98: 2-4. March added that there was “no way using the word ‘lunged’ as opposed to any other word would have made a difference to the Medical Examiner’s Office,” because their ultimate finding was going to be that the cause of death was multiple gunshot wounds. March 7/25/16 OIG Tr. 130:2-9.

## V. ANALYSIS

OIG’s investigation established that March made material false statements and conclusions in the reports he drafted regarding his investigation, provided a false material statement to CCME concerning the circumstances of McDonald’s death, and failed to properly document his investigation. March’s violations constituted a knowing exaggeration of the threat posed by McDonald and established the false narrative that a backpedaling Van Dyke was forced to shoot an onrushing McDonald, while he was “lunging” at Van Dyke and Walsh with a knife.

March’s actions, individually and collectively, constitute violations of CPD Rules. Each of March’s false statements constitutes a violation of Rule 14 (making a false report, written or oral). His false statements also constitute violations of Rule 2 (engaging in any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department), and Rule 3 (failing to promote the Department’s efforts to implement its policy and accomplish its goals). In addition, March violated DDSOs 11-01, and therefore Rules 6 and 11 as well, by failing to thoroughly document his investigation. A detective who has made false statements in an official investigation has irrevocably tainted not only his credibility, but also the credibility of CPD—and also fails to promote CPD’s goal of employing individuals with personal integrity and professional devotion to law enforcement. March was the critical

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<sup>53</sup> One of March’s October 20, 2014 GPRs provides: “Cloudy + cool – 50s.” OIG 15-0564 003263.

<sup>54</sup> One of March’s October 20, 2014 GPRs lists the name of FOP representatives Kriston Kato and Marlon Harvey. OIG 15-0564 003263. The GPR does not provide any information regarding why he listed those individuals’ names.



touchstone to a hub and spoke manufacturing of a manifestly false narrative that has resulted in grievous reputation harm to the Department and with it, injury to the reputation of its thousands of conscientious professional sworn personnel. Accordingly, OIG recommends that CPD discharge March.

**A. March's False Statements**

**1. The Purported Consistency of the Witness Statements with the Available Video**

In the 301 CSR, March falsely reported that the recovered in-car camera video from Beats 845R and 813R was “consistent with the accounts of all of the witnesses.” During his OIG interview, March maintained that that statement was true, even after reviewing the 813R and Dunkin’ Donuts videos.<sup>55</sup> See March 4/27/16 OIG Tr. 134:17-20 (“[I]f I was writing the reports today, I would write it the same way because everything in this report is totally factual as far as I believe.”). However, there are numerous witness statements contained in the 301 CSR that are clearly inconsistent with the recovered videos. Most notably:

- McDonald did not advance toward Walsh and Van Dyke after they exited their vehicles (Van Dyke, Walsh, and Sebastian)

As described in the Relevant Video Footage summary chart set forth above, *see supra* § IV(B)(3), by the time Van Dyke and Walsh exited their vehicle, McDonald was walking in a southwest direction away from Van Dyke and Walsh, who at all times prior to the shooting were east of McDonald. Thus, at no time during the encounter between McDonald and Walsh and Van Dyke did McDonald advance toward the two officers. Rather, it was the officers who moved northward or west/southwestward, toward McDonald, as he continued to walk in a southwest direction. March ultimately acknowledged that fact:

[I]t was [the officers’] job to approach him. And any inference that the fact that they took a couple of steps toward McDonald somehow mitigates what McDonald did or doesn’t justify what the officers did doesn’t make any sense to me. Yes, they took a couple of steps toward McDonald, but in the grand scheme of things of what this situation—what this incident entailed, it’s a very minor fact. And it’s obvious—you can see it in the video.”

March 4/26/16 OIG Tr. 323:23-324:9. Therefore, the evidence establishes that McDonald did not advance toward Van Dyke and Walsh.

- McDonald did not raise his knife across his chest and over his shoulder and point his knife at Van Dyke (Van Dyke); swing a knife toward Walsh and Van Dyke (Walsh), or raise his right arm toward Van Dyke, as if attacking him (Fontaine).

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<sup>55</sup> March acknowledged that he could and possibly should have included the Dunkin’ Donuts video in the finding that the witness accounts were consistent with the videos of the shooting.

The 813R dashcam video evidences that at no time during the period when Van Dyke and Walsh were outside their vehicle did McDonald raise the knife across his chest and over his shoulder and point the knife at Van Dyke. Seconds prior to the shooting, McDonald moved the knife from his right hip to the right side of his lower back, but this modest movement of the knife was not in the direction of Van Dyke and Walsh—Van Dyke and Walsh were in front of McDonald and to his left, and McDonald moved his knife behind his back, not in front of his body. March claimed that McDonald began raising his knife just prior to being shot, but that this movement was obscured by McDonald's body. However, if McDonald had raised his knife over his shoulder, as if attacking Van Dyke, one certainly would be able to see that movement on the 813R video. However, that video establishes conclusively that McDonald never made such a move. In addition, Fontaine admitted that the statement attributed to her—that McDonald raised his right arm as if attacking Van Dyke—was not accurate.<sup>56</sup> Accordingly, these statements of Van Dyke, Walsh and Fontaine are not consistent with the available video.

- Van Dyke did not backpedal before he fired his handgun at McDonald (Van Dyke)

Van Dyke's statement that he backpedaled prior to shooting McDonald is clearly refuted by the 813R dashcam video and the Dunkin' Donuts security camera video, which show that Van Dyke takes approximately three steps northwest/west toward McDonald before shooting him. At no time does Van Dyke move in a way that increases the distance between himself and McDonald. Rather, the video shows he either stayed still or moved toward McDonald. March himself admitted that "[j]ust prior to firing the handgun, Jason Van Dyke takes a couple of steps forward and then he begins to fire the handgun." March 4/26/16 OIG Tr. 277:3-6; *see also* March 4/26/16 OIG Tr. 324:5-9 (stating that it was "obvious" that Van Dyke and Walsh took a couple of steps toward McDonald). Nevertheless, March still claimed that the Dunkin' Donuts video showed Van Dyke backpedaling. That March refused to acknowledge the falsity of Van Dyke's statement, even after being presented with the video evidence, demonstrates his inability to provide reliable testimony regarding the events of October 20, 2014.

- Walsh did not back up several feet prior to Van Dyke shooting McDonald (Walsh)

The video evidence reflects that Walsh also did not back away from McDonald prior to the shooting. Rather, Walsh moved northward and then westward toward McDonald, and then moved parallel to McDonald, crossing almost the entire left-turn lane on Pulaski in a southwest direction as McDonald continued to walk in a southwest direction. Walsh never moved in a way that increased the distance between himself and McDonald. Rather, the video evidence shows that Walsh either moved toward McDonald, moved parallel to McDonald, or stayed still. When shown the video evidence, March, instead of acknowledging the false nature of Walsh's statement, claimed that he could see Walsh backpedaling on the Dunkin' Donuts video. *See* March 4/27/16 OIG Tr. 49:13-6 ("Walsh backpedals farther [than Van Dyke], and that's why he ends up obstructed by the police vehicle. But when he backpedals, he actually backpedals

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<sup>56</sup> Fontaine further stated that she never made the "as if attacking" statement to March.

behind Van Dyke.”). Again, March’s refusal to recognize the lack of backpedaling on the relevant videos reflects his inability or unwillingness to objectively view the evidence.

- McDonald did not attempt to get up after he was shot and fell to the ground (Van Dyke, Walsh, Viramontes)

The 813R dashcam video reveals that McDonald did not attempt to get up after he fell to the ground. Upon being shot and falling to the street, McDonald never moved his legs or lower body. In addition, the video only shows McDonald’s upper body making small, intermittent movements as what appears to be puffs of smoke rise from his body. Those small movements are not suggestive of a person trying to get to his feet. Accordingly, Van Dyke, Walsh, Viramontes’s statements that McDonald attempted to get up after he was shot are not consistent with the video evidence.

The above-identified false witness statements each served to exaggerate the danger McDonald posed to Van Dyke and Walsh, thus making Van Dyke’s shooting of McDonald appear more reasonable than it otherwise would have. In this context, March’s finding that these false witness statements were consistent with the available video can be seen as a deliberate attempt to perpetuate the false narrative that Van Dyke shot an oncoming McDonald in response to McDonald’s potentially deadly knife attack. March was shown the videos of the shooting which objectively contradict these statements, and still he stood by his finding. Accordingly, March’s decision to continue to disregard the objective evidence is evidence of the intentional nature of his false statements.

## 2. McDonald’s Purported Initiation of an Attack on Van Dyke and Walsh

March also falsely determined in the 301 CSR that McDonald “initiated imminent use of force likely to cause death or serious injury when he initiated an attack on Officers Jason Van Dyke and Joseph Walsh.” For the reasons set forth above, the evidence, including the available video, demonstrates that McDonald did not initiate an attack on Van Dyke and Walsh in which he used deadly force. March is the reporting officer for the 301 CSR and collaborated with Wojcik and Gallagher in reaching this finding. Thus, March is directly responsible for this finding, which constitutes a false statement.<sup>57</sup>

## 3. McDonald’s Purported “Lunging” at Officers

March, when notifying CCME of McDonald’s death, falsely stated that McDonald “lunged” at Van Dyke and Walsh with a knife. March provided his narrative to Briggs pursuant to an official Cook County investigation, and that narrative contains a false statement that directly relates to Briggs’s inquiry into the circumstances of McDonald’s death. Accordingly, March’s statement to Briggs violates Rule 14.

March did not contest the falsity of the statement, as he acknowledged—and video evidence

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<sup>57</sup> For similar reasons, the statement in the 339 CSR that “Criminal Attacked Officer That Officer Killed Criminal,” is also a false statement attributable to March.

confirms—that McDonald never lunged at Van Dyke and Walsh with a knife. Rather, March made self-serving denials regarding his provision of that statement. However, CCME investigator Earl Briggs’s case report must be credited over March’s denials because Briggs’s general documentation practice, which includes: (1) typing the information he receives from a detective directly into his report contemporaneously with the detective’s provision of that information; and (2) reading back to the detective the information he has entered into his report, serves to ensure the accuracy of his reporting of a detective’s statement. In addition, other than the typo concerning the date of the occurrence and Briggs’s description of McDonald’s knife, March conceded that a substantial portion of the factual information contained in the “lunged” paragraph was accurate and that he provided that information to Briggs.

Moreover, March’s attempts to impeach the credibility of Briggs’s report are not supported by police records and his own testimony. For example, March claimed that Briggs must have obtained certain of the factual information in his report from someone other than him. Specifically, March asserted that there was “no way” he told Briggs that the temperature at the scene was 52 degrees. March 7/25/16 OIG Tr. 102:6-8. However, March’s own GPR, dated October 20, 2014, described the weather that night as “Cloudy + cool – 50s.” Therefore, March was aware of the temperature on the night of October 20, 2014, at the time of his call with Briggs and certainly could have relayed that information to Briggs. Similarly, March contended that he could not have provided Briggs with information regarding the location of McDonald’s gun-shot wounds because he did not possess that information at the time of their conversation. However, March acknowledged that the CPD detectives who were at the hospital with McDonald’s body could have had that information, and further admitted that those detectives provided him with other medical information that evening, including the name of the doctor who pronounced McDonald.<sup>58</sup> Thus, contrary to March’s claim, it is entirely plausible that March did have knowledge of the specifics of McDonald’s gun-shot wounds when he spoke to Briggs.

Finally, March did not have a credible explanation as to why Briggs would have erroneously inserted the word “lunged” into his report. Briggs’s only objective was to get an accurate account of the circumstances of McDonald’s death, and he had no reason to fabricate March’s statement. In contrast, March’s usage of the term “lunged” is consistent with at least one other statement that was made at the scene of the shooting. Specifically, FOP spokesperson Pat Camden described McDonald as “lunging” at officers in the statement he provided to the media that night. It thus strains credulity to conclude that Briggs, who did not have communications with CPD personnel other than March regarding his report, employed the word “lunged,” as opposed to March, who was at the scene at the approximate time Camden was using that same word to describe McDonald’s actions.<sup>59</sup>

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<sup>58</sup> March himself noted that the reason he personally called CCME was because information was being funneled to him by CPD personnel, and he, as a result, “had the most information in one place, so to speak.” March 7/25/16 OIG Tr. 51:16-7.

<sup>59</sup> Briggs also had minimal time to conduct a broader informational outreach regarding the circumstances of McDonald’s death, as he completed his report less than two hours after receiving March’s notification.

#### 4. The HX486155 Case Incident Report

Finally, March falsely stated in the HX486155 Case Incident Report that “McDonald committed aggravated assaults against the three officers, finally forcing Officer Van Dyke, in defense of his life, to shoot and kill McDonald.” As set forth above, the objective evidence belies the factual assertion that McDonald “forc[ed]” Van Dyke to shoot him. To the extent that March was making a legal conclusion regarding Van Dyke’s use of force, pursuant to the DDSOs, such a conclusion was not appropriate. *See, e.g.*, DDSO 15-22 (prohibiting detectives from stating that the use of deadly force was justified).

#### **B. March’s Failure to Properly Document his Investigation**

March violated Addendum 1 to Detective Division Special Order (DDSO) 11-01, by failing to “thoroughly document relevant information discovered during the course of the investigation.” Specifically, Van Dyke provided March with narrative descriptions of his shooting of McDonald on three separate occasions on the night of October 20, 2014 and morning of October 21, 2014. However, March, knowing that Van Dyke had shot and killed McDonald, only made an official record of one of those narratives.<sup>60</sup> March declined to document in any form his first conversation with Van Dyke at the scene of the shooting, during which Van Dyke, according to March, provided a lengthy, detailed description of the events that culminated in his shooting of McDonald. Similarly, during March’s Area Central interview of Van Dyke, March only noted “Same Details” in the corresponding GPR, even though, as March acknowledged, Van Dyke provided another narrative regarding the shooting at that time. Although the DDSOs provide a detective some discretion regarding whether to take written or oral statements from eyewitnesses to a police-involved shooting, there is little justification for March’s failure to make a record of his lengthy investigative interviews of the person who was responsible for that police-involved shooting. March’s failure to thoroughly document the interviews of Van Dyke he conducted at the scene of the shooting and Area Central therefore violated DDSO 11-01.<sup>61</sup>

### **VI. RECOMMENDATION**

March’s false reports raise significant concerns regarding his credibility and ability to perform his duties as a sworn officer. As a sworn officer, March’s reports are relied upon in criminal legal proceedings and his credibility is therefore critical to his position. An officer who has made false statements in an official investigation has irrevocably tainted his credibility and has wholly disqualified himself from effectively executing core police functions. Based on this conduct he may be the subject of cross-examination in any contested proceedings in which he may appear as a witness, *see* FED. R. EVID. 608(b) (“Specific instances of conduct”), and his conduct and the findings resulting from this investigation would further qualify as impeachment

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<sup>60</sup> This specific violation of March’s fits into a larger pattern of sub-standard investigative practices, as he failed to document his initial interviews of any of the ten officers who were present when Van Dyke shot McDonald.

<sup>61</sup> In addition, March’s reporting of his investigation did not comport with DDSO 15-22 because he (1) reported the facts detailing the investigation under the aggravated assault RD number (HX475653) as opposed to the justifiable homicide RD number (HX486155); and (2) reached a conclusion in the 301 CSR as to whether Van Dyke’s use of deadly force was justified.

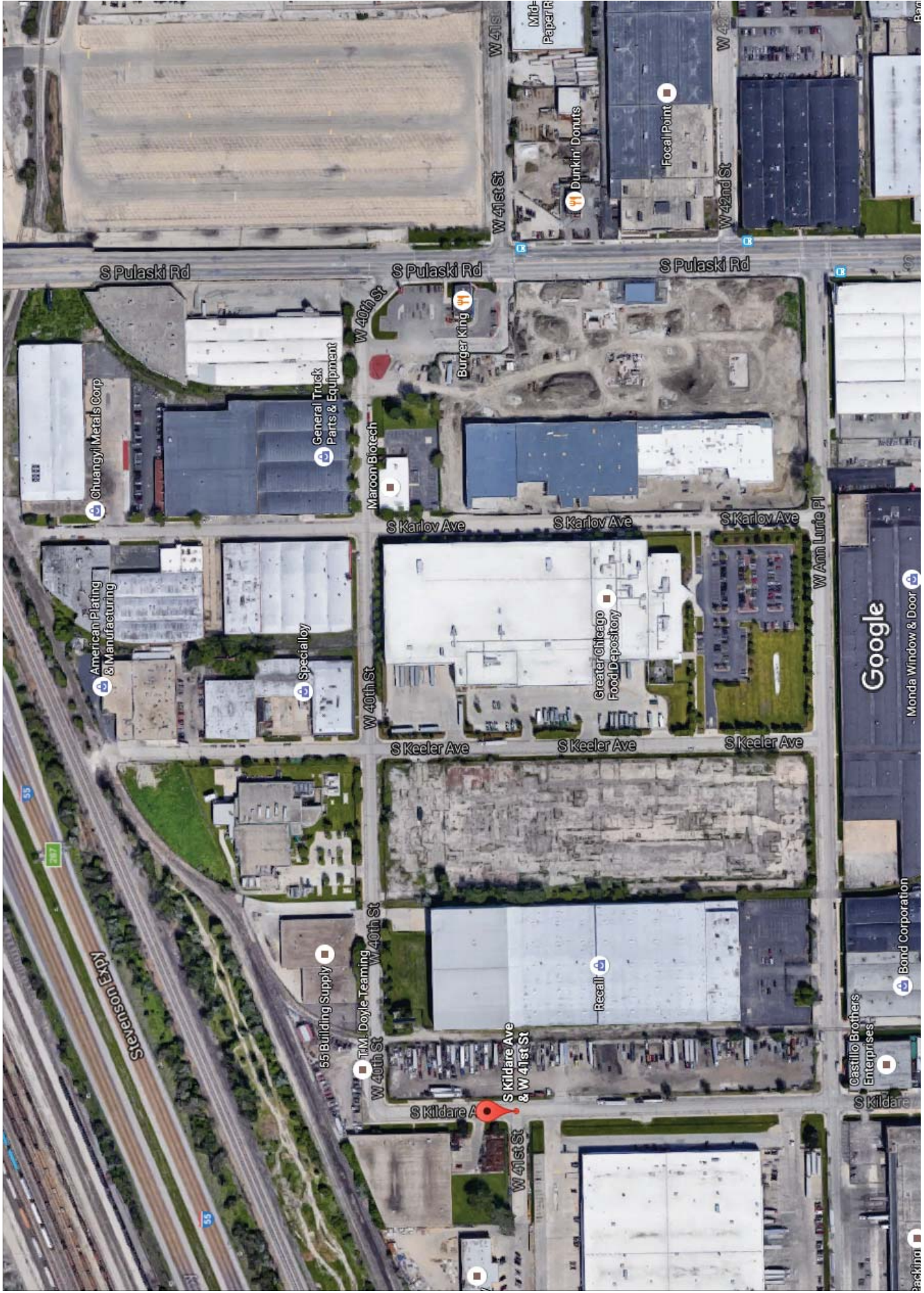
material that should, in principle, be disclosed in any contested proceeding involving the official records or testimony March generates. *See Giglio v. United States*, 405 U.S. 150 (1972) (requiring disclosure in criminal case of information impeaching of government witness's credibility). Illinois courts have repeatedly noted that "as guardians of our laws, police officers are expected to act with integrity, honesty, and trustworthiness" and have found intentional false or misleading statements by police officers to be sufficient cause for termination. *Rodriguez v. Weis*, 408 Ill. App. 3d 663, 671 (1st Dist. 2011) (quoting *Sindermann v. Civil Service Comm'n*, 275 Ill. App. 3d 917, 928 (2nd Dist. 1995)). OIG therefore recommends that CPD discharge March and refer him for placement on the ineligible for rehire list maintained by the Department of Human Resources.

## **VII. CPD RULE VIOLATIONS**

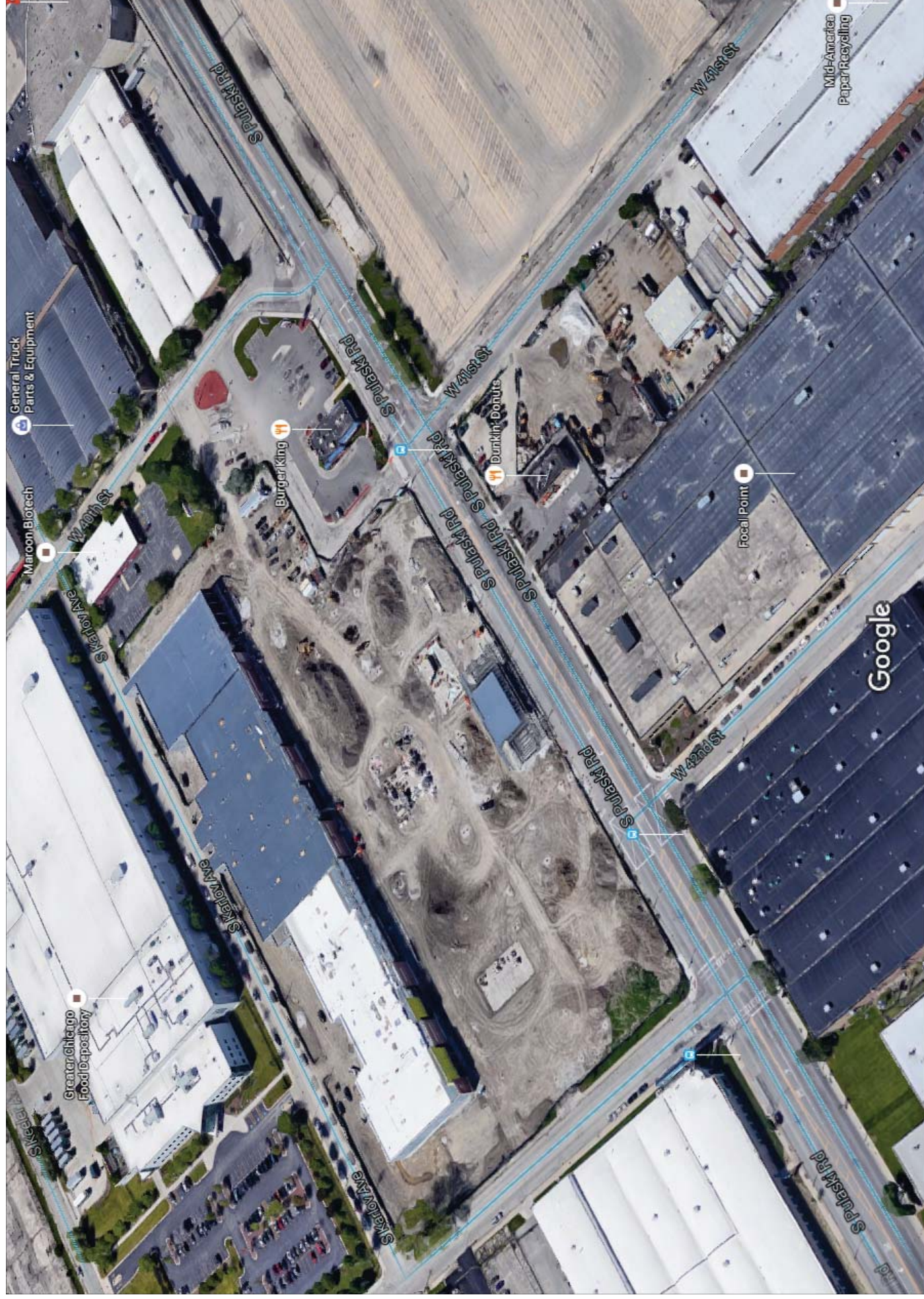
- Rule 2** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 3** Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
- Rule 6** Disobedience of an order or directive, whether written or oral.
- Rule 11** Incompetency or inefficiency in the performance of duty.
- Rule 14** Making a false report, written or oral.



# Appendix A

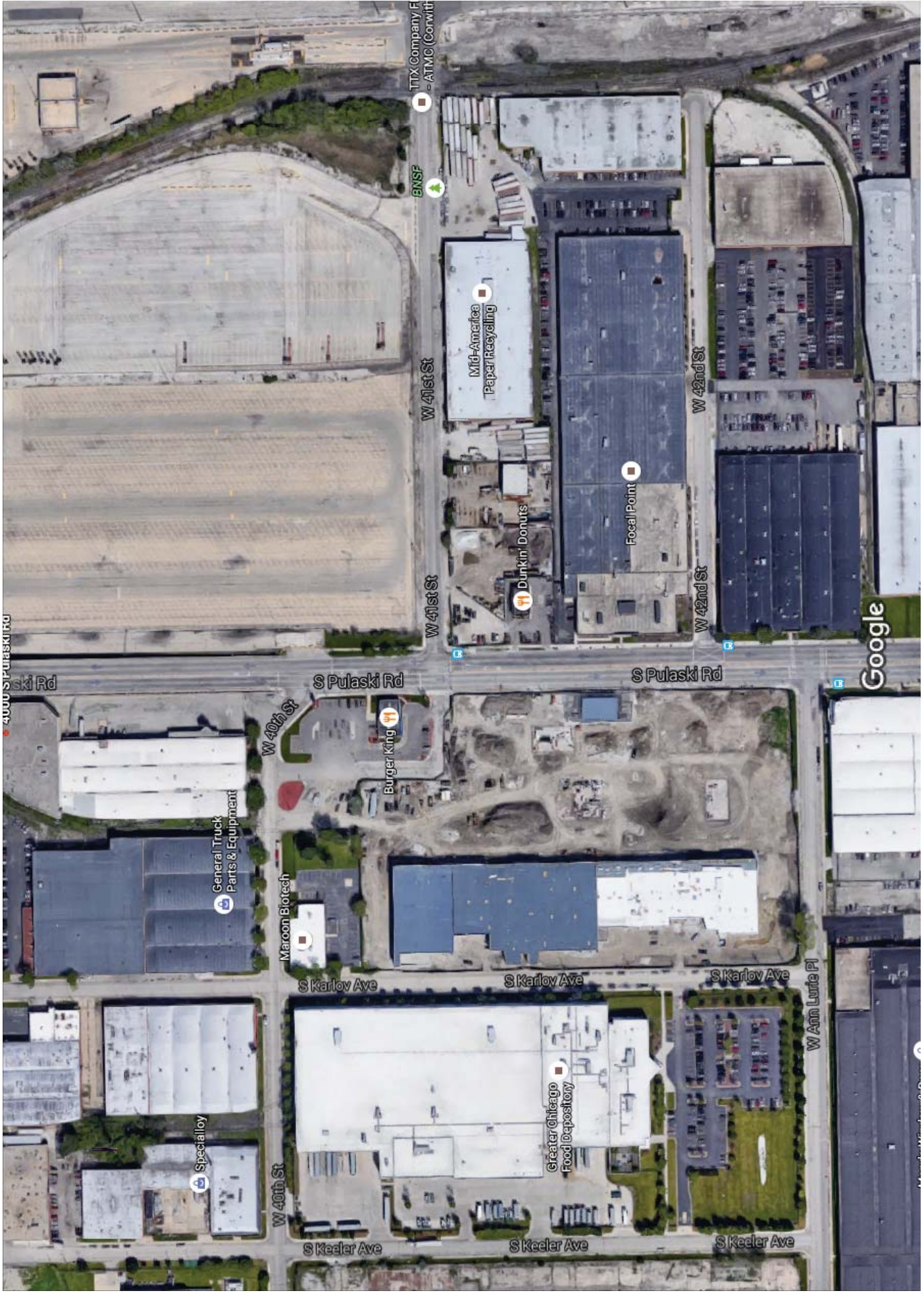






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